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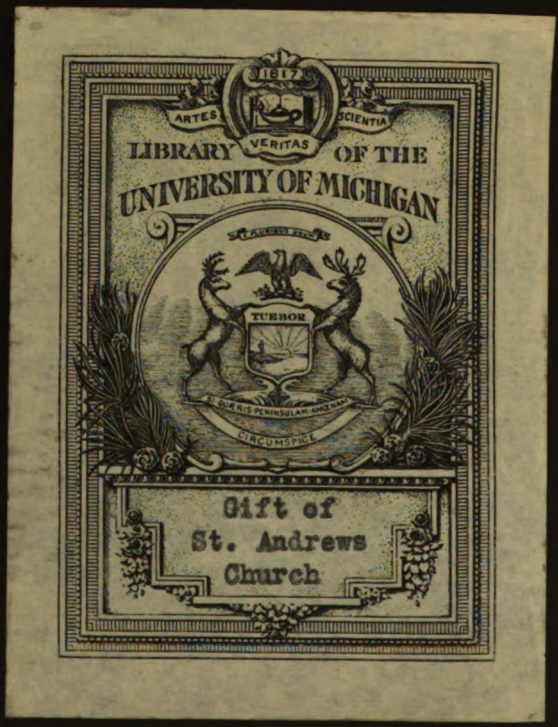

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THE WORKS

OF

THE REV. JOSEPH BINGHAM, M.A.

EDITED BY

HIS LINEAL DESCENDANT

THE REV. R. BINGHAM, JUN., M.A.

FORMERLY OF MAGDALEN HALL, OXFORD,

AND

FOR MANY YEARS CURATE OF TRINITY CHURCH, GOSPORT.

A NEW EDITION IN TEN VOLUMES.

VOL. VI.

OXFORD:

AT THE UNIVERSITY PRESS.

M.DCCC.LV.

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St. Andrews Church
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OF

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OF

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THE ANTIQUITIES

OF THE

CHRISTIAN CHURCH.

BOOK XVI.

OF THE UNITY AND DISCIPLINE OF THE ANCIENT CHURCH.

CHAP. I.

Of the union and communion observed in the ancient Church.

Of the fundamental unity of faith and obedience to the laws of Christ.

1. THE design of ecclesiastical discipline being chiefly to preserve the unity of the Church in all necessary things, and keep it in purity and free from corruption by turning out unworthy members from her society and communion, and denying them all the privileges that belong to it; nothing will be more proper to usher in a discourse concerning the discipline of the ancient Church, than first to give a preliminary account of that union and communion which she laboured to preserve in all her members united in one mystical body under Christ her universal head. And here first of all the unity of faith was principally insisted on, as the foundation on which all other sorts of Christian unity were built: and next to this they required the unity of holiness or obedience, that the Church might be one in observing[1] all the laws and institutions of Christ.

[1] Claget on Church Unity. (pp. 196–198, of his Works, pp. 2–4, of the Tract.) That there must be some common foundation, &c. . . . . The

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Some reckon the first sort of unity fundamental and essential to the very being of the Church, and all others only necessary to the well-being of it. But I conceive the Ancients accounted both the unity of faith and obedience necessary as fundamentals to the very being of the Church[2], being both joined together by our Saviour as the rock on which his Church should be built. For as he says of faith, "Upon this rock will I build my Church, and the gates of hell shall not prevail against it:" (Matth. 16, 18.) so he says of obedience to his laws, "Whosoever heareth these sayings of mine, and doeth them, I will liken him to a wise man, which built his house upon a rock: and the rain descended, and the floods came, and the winds blew, and beat upon that house; and it fell not: for it was founded upon a rock. But every one that heareth these sayings of mine, and doeth them not, shall be likened unto a foolish man, which built his house upon the sand: and the rain descended, and the floods came, and the winds blew, and beat upon that house; and it fell: and great was the fall of it." (Matth. 7, 24–27.) St. Luke, in relating the same passage, words it thus: "He that heareth, and doeth not, is like a man that without a foundation built an house upon the earth, against which the stream did beat vehemently, and immediately it fell; and the ruin of that house was great." (Luke 6, 49.) So that obedience as well as faith is part of that foundation upon which the Church of Christ is built: and he that retains not the unity of obedience wants an essential part of its foundation, and is not a real living member of Christ's mystical body, but only a broken or a withered branch of it. In regard to which our Saviour says in another place, "Whosoever shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven." (Matth. 5, 19.)

Upon this account when he sent his Apostles to teach all nations he enjoined them two things, first, "To baptize them in the name (or faith) of the Father, and of the Son, and of the Holy Ghost:" and secondly, "To teach them to observe all things whatsoever he had commanded them." (Matth. 28,

Church ought to be one. In observing all the institutions and commands of our Lord Jesus, &c.

[2] Vid. Augustin. de Unit. Eccles. c. 21. See n. 20, following.

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19 and 20.) And for the same reason the ancient Church never admitted any persons to baptism, which was the ordinary door of admitting proselytes and uniting them as members to the body of the Church, without first obliging them to do these two things: first, to make profession of the primary articles of the Christian faith: and secondly, to promise or bind themselves by a strict engagement and vow to live in holy obedience to the laws and institutions of Christ: as I have fully shown in a former Book[3], treating of the necessary conditions required of men before their baptism. Where I have particularly remarked out of St. Austin, that he wrote that excellent book, *De Fide et Operibus*, to show the necessity of obedience and good works as well as faith to the being of a Christian, against some who pretended that the profession of faith in Christ, and not the profession of obedience to his laws, was necessarily to be required of men in order to unite them as Christians to the body of the Church by baptism. They said men were to be baptized and united to the Church so long as they kept the foundation of faith entire, whatever wicked works they built thereupon: for these would be purged away by certain punishments of fire, and they would obtain salvation at the last by virtue of the foundation which they retained. To which St. Austin replies, that this was a false interpretation of the Apostle's meaning; and that however these men were so impudent, as to charge the Church's practice with novelty; yet it was always a firm custom obtaining in the Church to reject professed workers of iniquity from baptism, and constantly refuse them the communion of the Church: and this was grounded upon the rules of ancient truth, which manifestly declared that they which do such things shall not inherit the kingdom of God. Since therefore both faith and obedience were reckoned essentially necessary to baptism, they must be concluded equally necessary to preserve men in the real and perfect unity of the Church; unless we could suppose that any thing was necessary to make a man a Christian that was not necessary to make or keep him a member of the Church.

If it be now inquired what articles of faith, and what points of practice were reckoned thus fundamental, or essential to the very being of a Christian and the union of many Christians

[3] B. 11. ch. 7. s. 6. v. 4. p. 126.

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into one body or Church: the Ancients are very plain in resolving this. For as to fundamental articles of faith, the Church had them always collected or summed up out of Scripture in her Creeds, the profession of which was ever esteemed both necessary on the one hand and sufficient on the other, in order to the admission of members into the Church by baptism; and consequently both necessary and sufficient to keep men in the unity of the Church, so far as concerns the unity of faith generally required of all Christians to make them one body and one Church of believers. Upon this account, as I have had occasion to show in a former Book[4], the Creed was commonly called by the Ancients, the *κανὼν* and *regula fidei*, because it was the known *standard* or *rule of faith* by which orthodoxy and heresy were judged and examined. If a man adhered to this rule he was deemed an orthodox Christian, and in the union of the Catholic faith: but if he deviated from it in any point, he was esteemed as one that had cut himself off, and separated from the communion of the Church, by entertaining heretical opinions and deserting the common faith. Thus the fathers, in the Council of Antioch[5], charge Paulus Samosatensis with departing from the rule or canon, meaning the Creed, the rule of faith, because he denied the divinity of Christ. Irenæus[6] calls it 'the unalterable canon or rule of faith:' and says[7] 'this faith was the same in all the world; men professed it with one heart and one soul: for though there were different dialects in the world, yet the power of the faith was one and the same. The Churches in Germany had no other faith or tradition than those in Spain, or in France, or in the East, or Egypt, or Libya. Nor did the most eloquent ruler of the Church say any more than this; for no one was above his Master: nor the weakest diminish any thing of this tradition. For the faith being one and the same, he that said most of it could not enlarge it; nor he that said least take any

[4] B. 10. ch. 3. s. 2. v. 3. p. 497.

[5] Ep. C. Antioch. ap. Euseb. l. 7. c. 30. (v. 1. p. 360. 29.) *Ὅπου δὲ ἀποστὰς τοῦ κανόνος ἐπὶ κίβδηλα καὶ νόθα διδάγματα μετελήλυθεν, οὐδὲν δεῖ τοῦ ἔξω ὄντος τὰς πράξεις κρίνειν.*

[6] L. 1. c. 1. p. 44. (p. 44. 2.) *Ὁ τὸν κανόνα τῆς ἀληθείας ἀκλινῆ ἐν ἑαυτῷ κατέχων, ὃν διὰ τοῦ βαπτίσματος εἴληφε.*

[7] Ibid. c. 3. (p. 46. 2.) *Ταύτην τὴν πίστιν . . . . ἡ ἐκκλησία, καίπερ ἐν ὅλῳ τῷ κόσμῳ διεσπαρμένη, ἐπιμελῶς φυλάσσει, κ. τ. λ.*—See b. 10. ch. 4. s. 1. v. 3. p. 513. n. 33.

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thing from it.' So Tertullian[8] says, 'There is one rule of faith only, which admits of no change or alteration, that which teaches us to believe in one God Almighty, the maker of the world, and in Jesus Christ his Son, &c.' 'This rule,' he says[9], 'was instituted by Christ himself, and there were no disputes in the Church about it, but such as heretics brought in or such as made heretics. To know nothing beyond this was to know all things.' 'This faith[10] was the rule of believing from the beginning of the Gospel, and the antiquity of it was sufficiently demonstrated by the novelty of heresies, which were but of yesterday's standing in comparison of it.' Cyprian says[11], it was the law which the whole Catholic Church held, and that the Novatians themselves baptized into the same Creed, though they differed about the sense of the article relating to the Church. Therefore Novatian, in his Book of the Trinity[12], makes no scruple to give the Creed the same name, *regula veritatis, the rule of truth.* And St. Jerom[13] after the same manner, disputing against the errors of the Montanists, says, 'the first thing they differed about was the rule of faith. For the Church believed the Father, Son, and Holy Ghost to be

[8] De Virgin. Veland. c. 1. [Semler, c. 13.] (p. 173 a.) Regula quidem fidei una omnino est sola immobilis, irreformabilis, credendi scilicet in unicum Deum Omnipotentem, mundi Conditorem, et Filium ejus Jesum Christum, natum ex Virgine Maria, &c.

[9] De Præscript. c. 14. (p. 207 a.) Hæc regula, a Christo, ut probabitur instituta, nullas habet apud nos quæstiones, nisi quas hæreses inferunt, et quæ hæreticos faciunt. ....Adversus regulam nihil scire, omnia scire est.

[10] Cont. Prax. c. 2. (p. 501 c.) Hanc regulam ab initio Evangelii decucurrisse, etiam ante priores quosque hæreticos, nedum ante Praxeam hesternum, probabit tam ipsa posteritas omnium hæreticorum, quam ipsa novellitas Praxeæ hesterni.

[11] Ep. 76. [al. 69.] ad Magn. p. 183. (p. 296.) Quod si aliquis illud opponit, ut dicat, eandem Novatianum legem tenere, quam Catholica ecclesia teneat, eodem symbolo quo et nos, baptizare, &c..... sciat, quisquis hoc opponendum putat, primum, non esse unam nobis et schismaticis symboli legem, neque eandem interrogationem. Nam cum dicunt, Credis remissionem peccatorum et vitam æternam per sanctam ecclesiam? mentiuntur in interrogatione, quando non habeant ecclesiam.

[12] De Trinit. c. 1. (ap. Galland. t. 3. p. 287 a.) Regula exigit veritatis, ut primo omnium credamus in Deum Patrem et Dominum Omnipotentem, &c.—C. 9. (ibid. p. 293 a.) Eadem regula veritatis docet nos, credere post Patrem etiam in Filium Dei, &c.

[13] Ep. 54. [al. 41.] ad Marcellam. (t. 1. p. 186 e.) Primum in fidei regula discrepamus. Nos Patrem, et Filium, et Spiritum Sanctum, in sua unumquemque persona ponimus, licet substantia copulemus: illi, Sabellii dogma sectantes, Trinitatem in unius personæ angustias cogunt.

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each distinct in his own Person, though united in substance: but the Montanists, following the doctrine of Sabellius, contracted the Trinity into one Person.'

From all this it is evident that the fundamental articles of faith were those which the primitive Church summed up in her Creeds, in the profession of which she admitted men as members into the unity of her body by baptism; and if any deserted or corrupted this faith, they were no longer reputed Christians, but heretics, who brake the unity of the Church by breaking the unity of the faith, though they had otherwise made no further separation from her communion. For as Clemens Alexandrinus [14] says, out of Hermes Pastor, 'Faith is the virtue that binds and unites the Church together.' Whence Hegesippus [15], the ancient historian, giving an account of the old heretics, says, 'they divided the unity of the Church by pernicious speeches against God and his Christ:' that is, by denying some of the prime, fundamental articles of faith. 'He that makes a breach upon any one of these, cannot maintain the unity of the Church, nor his own character as a Christian.' 'We ought therefore,' says Cyprian [16], 'in all things to hold the unity of the Catholic Church, and not to yield in any thing to the enemies of faith and truth.' 'For he cannot be thought a Christian [17] who continues not in the truth of Christ's Gospel and faith.' 'If men be heretics,' says Tertullian [18], 'they cannot be Christians.' The like is said by Lactantius, and Jerom, and Athanasius, and Hilary, and many others of the Ancients, whose sense upon this matter I have fully represented in another [19] place. As therefore there was an unity of faith necessary to be maintained in certain fundamental articles in order to make a man a Christian: so these articles were always to

[14] Stromat. l. 2. (p. 458. 19.) Η τοίνυν συνέχουσα τὴν ἐκκλησίαν . . ἀρετή, ἡ πίστις ἐστι.—Conf. Herm. Past. l. 1. Vis. 3. c. 8. (Cotel. v. 1. p. 81.) Prima quidem earum, quæ [turrim] [nempe ecclesiam] continet manu, fides vocatur: per hanc salvi fiunt electi Dei, &c.

[15] Ap. Euseb. l. 4. c. 22. (v. 1. p. 183. 9.) . . . . Οἵ τινες ἐμέρισαν τὴν ἕνωσιν τῆς ἐκκλησίας φθορμαίοις λόγοις κατὰ τοῦ Θεοῦ, κ. τ. λ.

[16] Ep. 71. ad Quint. p. 194. (p. 303.) . . . . Per omnia debemus ecclesiæ Catholicæ unitatem tenere, nec in aliquo fidei et veritatis hostibus cedere.

[17] De Unit. Eccles. p. 114. (p. 82.) . . . . Nec Christianus videri potest, qui non permanet in Evangelii ejus et fidei veritate.

[18] De Præscript. c. 37. (p. 215 c.) Si hæretici sunt, Christiani esse non possunt.

[19] B. 1. ch. 3. s. 4. v. 1. p. 29.

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be found in the Church's Creeds; the profession of which was esteemed keeping the unity of the faith; and deviating in any point from them was esteemed a breach of that one faith, and a virtual departing from the unity of the Church.

As to the other points of obedience to the laws and institutions of Christ, which were reckoned fundamental and essential to the being of a Christian and the unity of the Church, they were generally summed up in those short forms of renouncing the Devil, and his service and his works, and covenanting with Christ to live by the rules of his Gospel. By which they understood the renouncing all gross sins, such as idolatry, witchcraft, murder, injustice, intemperance, uncleanness, and whatever might be called worldly and fleshly lusts, contrary to the general tenour of the Gospel, and "the grace of God which had appeared unto all men, teaching us, that denying ungodliness and worldly lusts, we should live soberly, righteously, and godly in this present world." [Tit. 2, 11 and 12.] They that walked after this rule, and squared their lives by these general measures and lines of duty; "adding to their faith virtue, and to virtue knowledge, and to knowledge temperance, and to temperance patience, and to patience godliness, and to godliness brotherly kindness, and to brotherly kindness charity;" [2 Pet. 1, 5–7.] these were the true Israel of God, and in the perfect unity of his Church: as long as they did these things they could "never fall:" nothing could separate them from his Church, or from the love of God in Christ Jesus: "for so an entrance was ministered to them abundantly into the everlasting kingdom of our Lord and Saviour Jesus Christ." [ibid. 11.] But if men went contrary to this rule, walking in the works of the flesh, and not of the Spirit, professing to know God, but in works denying him; though they might be corporeally and externally united to the visible body of the Church, yet internally and spiritually they were divided from it. St. Austin[20] says expressly, 'that though men were re-

[20] De Unit. Eccles. [al. Ad Cathol. Ep. cont. Donatist.] c. 21. (t. 9. p. 378 g. et p. 379 a.) Cum igitur boni et mali dent et accipiant baptismi sacramentum, nec regenerati spiritaliter in corpus et membra Christi coædificentur nisi boni: profecto in bonis est illa ecclesia, cui dicitur, *Sicut lilium in medio spinarum, ita proxima mea in medio filiarum.* In his est enim qui ædificant super petram, id est, qui audiunt verba Christi, et faciunt..... Non est ergo in eis, qui ædificant super

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generated by baptism, yet none but the good were spiritually built up into the body and members of Christ: the good only compose that Church of which it is said, "As the lily among thorns so is my love among the daughters." (Cant. 2, 2.) That Church consists only of those who build upon the rock, that is, who hear the words of Christ, and do them. They therefore are not of that Church who build upon the sand, that is, who hear the words of Christ, and do them not. And as they who by the ligaments of charity are incorporated into the building that is founded upon the rock, and into the lily that shines among thorns, shall inherit the kingdom of God: so they who build upon the sand, and are numbered among the thorns, shall as certainly not inherit the kingdom of God.' A little after[21], reciting those words of the Apostle, (Gal. 5, 19–21,) "The works of the flesh are manifest, which are these, adultery, fornication, uncleanness, lasciviousness, idolatry, withcraft, hatred, variance, emulations, wrath, strife, seditions, heresies, envyings, murders, drunkenness, revellings, and such like: of the which I tell you before, as I have also told you in time past, that they which do such things shall not inherit the kingdom of God," he adds, 'all those are not in the lily, nor upon the rock, and heretics are in that number.' Again[22], speaking of the grace of the Spirit which sanctifies good men, he says, 'This is wanting in all the wicked and sons of hell, although they be baptized with the baptism of Christ, as Simon Magus was baptized.' 'There are many such[23] who communicate in the

arenam, id est, qui audiunt verba Christi, et non faciunt.... Qui ergo compage caritatis incorporati sunt ædificio super petram constituto, et lilio inter spinas candenti, ipsi utique possidebunt regnum Dei. Qui autem super arenam ædificant, vel in spinis deputantur, quis dubitaverit, quod regnum Dei non possidebunt?

[21] Ibid. c. 22. (p. 379 d.) *Manifesta*, inquit, *sunt opera carnis, quæ sunt fornicationes, immunditiæ, luxuriæ, idolorum servitus, veneficia, inimicitiæ, contentiones, æmulationes, animositates, dissensiones, hæreses, invidiæ, ebrietates, comessationes, et his similia, quæ prædico vobis, sicut prædixi, quoniam qui talia agunt, regnum Dei non possidebunt.* Omnes itaque isti non sunt in lilio, nec super petram: inter hos autem et hæretici positi sunt.

[22] Ibid. c. 23. (p. 382 c.) Hoc deest omnibus malignis et gehennæ filiis, etiam si Christi baptismo baptizentur, sicut Simon fuerat baptizatus.

[23] Ibid. c. 25. (p. 386 c.) Et multi tales sunt in sacramentorum communione cum ecclesia, et tamen jam non sunt in ecclesia. Alioquin si tunc quisque præciditur, cum visibiliter excommunicatur, consequens erit, ut tunc rursus inseratur, cum visibiliter communioni restituitur.

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sacraments with the Church, and yet they are not now in the Church. Such are cut off before they be visibly excommunicated: and if they be visibly excommunicated, and visibly restored to communion; if they come with a feigned mind, and an heart opposing the truth and the Church, they are not reconciled, they are not inserted into the Church, although the solemnity of reconciliation be performed upon them.' In another place[24] he says, 'The wicked multitude of the Church are not reckoned to be in the Church, save only so far as they have the same sacraments in common with the saints, because they have only a form of godliness, but deny the power of it.' He repeats the same frequently in his Books against Cresconius[25], and other places, which it is needless here to repeat at length. I only observe, that as charity was reckoned one essential part of a Christian's virtue; our Saviour having made it the characteristic note of his disciples; "By this shall all men know that ye are my disciples, if ye have love one for another:" [John 13, 35.] so the Ancients laid a great stress upon this one virtue, without which they never reputed any man to be truly in the unity of the Church, whatever claim he could otherwise lay to the communion of it.

Quid si ergo fictus accedat, atque adversus veritatem et ecclesiam cor inimicissimum gerat, quamvis peragatur in eo illa solemnitas, numquid reconciliatur, numquid inseritur? Absit.

[24] Ibid. c. 13. (p. 361 f.) Plerumque enim sermo divinus impias turbas ecclesiæ, quæ nec in ecclesia deputantur, tamen propter sacramenta, quæ cum sanctis communiter habent, quia inest in eis quædam forma pietatis, cujus virtutem negant, (sicut ait Apostolus, *Habentes formam pietatis, virtutem autem ejus abnegantes,*) sic redarguit, tanquam omnes tales sint, et nullus bonus omnino remanserit.

[25] Cont. Crescon. l. 1. c. 29. (t. 9. p. 405 g.) Non autem existimo, &c. See n. 26, following.—L. 2. c. 15. (p. 418 e.) Ista quippe in baptizatis et baptizantibus visibili baptismo reperiuntur. Ad illum tamen fontem proprium, cui nemo communicat alienus; ad illum fontem signatum, hoc est, ad Spiritus Sancti donum, quo caritas Dei diffunditur in cordibus nostris, nullus istorum nisi mutatus accedit, ita omnino mundandus, ut non sit alienus, sed sit cœlestis particeps pacis, sanctæ socius unitatis, plenus individuæ caritatis, civis angelicæ civitatis.—C. 21. (p. 422 f.) Qui enim mente perversa videtur intus esse, cum foris sit, ab ipso Christo jam judicatus est. . . . . Omnia quippe ista monstra absit omnino ut in membris illius columbæ unicæ computentur: absit ut intrare possint limites horti conclusi, cujus ille custos est, qui non potest falli.—C. 33. (p. 432 a.) . . . . Nec propter malos, qui videntur esse intus, deserendi sunt boni, qui vere sunt intus.—C. 34. (p. 432 d.) Qui [scil. mali] cum sint a bonis vita moribusque spiritaliter separati, corporaliter tamen eis in ecclesia videntur esse permixti usque in diem judicii, quo etiam corporaliter debitas separabuntur ad pœnas.

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Of the unity of love and charity, as an essential part of Christian obedience.

2. 'I do not think any man,' says St. Austin[26], 'so vain and foolish, as to believe such an one to appertain to the unity of the Church who has not charity. For St. James speaking against those who thought it sufficient to believe, but would not do good works, says, "Thou believest that there is one God; thou doest well: the devils also believe and tremble." [James 2, 19.] Certainly the devils are not in the unity of the Church; and yet we cannot say they believe otherwise of Christ than the Church believes, seeing they said to the Lord Jesus Christ himself, "What have we to do with thee, thou Son of God?" [Matth. 8, 9.] and St. Paul says, "Though I have all faith, so that I could remove mountains, and have not charity, I am nothing." [1 Cor. 13, 3.]' 'They that are enemies to this brotherly charity,' says St. Austin again[27], 'whether they are openly out of the Church, or seem to be within, they are false Christians and Antichrists. When they seem to be within, they are separated from that invisible union or bond of charity. Whence St. John says of them, "They went out from us; but they were not of us." He does not say, they were made aliens by going out, but because they were aliens before, he declares that therefore they went out.' 'This charity was necessary to incorporate men into that building[28], which was founded upon the rock of obedience, without which it could not stand: to uphold the structure, charity was required as a principal part of the foundation, whereupon the

[26] Ibid. (p. 405 f.) Non autem existimo quenquam ita desipere, ... ut credat ad ecclesiæ pertinere unitatem eum, qui non habeat caritatem. ..... De fide etiam Jacobus apostolus, cum loqueretur adversus eos, qui sibi quod crediderant sufficere arbitrabantur, et bene operari nolebant, Tu credis, inquit, quoniam unus Deus est; bene facis, et dæmones credunt, et contremiscunt. Nempe in unitate ecclesiæ dæmones non sunt, nec ideo tamen possumus dicere aliud esse quod credunt, cum et Domino Jesu Christo dixerint, Quid nobis et tibi est, Fili Dei? Unde et Paulus apostolus, Si habeam, inquit, omnem fidem, ita ut montes transferam, caritatem autem non habeam, nihil sum.

[27] De Bapt. l. 3. c. 19. (t. 9. p. 119 d, e.) Hujus autem fraternæ caritatis inimici, sive aperte foris sint, sive intus esse videantur, pseudochristiani sunt et antichristi. .... Cum intus videntur, ab illa invisibili caritatis compage separati sunt. Unde Johannes dicit, Ex nobis exierunt, sed non erant ex nobis: nam si fuissent ex nobis, mansissent utique nobiscum. Non ait quod exeundo alieni facti sunt; sed quod alieni erant, propter hoc eos exisse declaravit.

[28] Vid. August. de Unit. Eccles. c. 21. (t. 9. p. 379 b.) .... Compage caritatis incorporati sunt ædificio super petram constituto.

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whole building rested, being fitly framed together, and united by charity into one, as members of the mystical body of Christ.'

3. After this manner the Ancients commonly discoursed of these sorts of unity, which I call fundamental to the very being of a Church; being so absolutely necessary and essential, as that the Church could not consist without them, they were necessary to every individual, and necessary in all cases and circumstances whatsoever: there being no case in which it was lawful to deny the faith; nor any case that could dispense with a man's obligations to sobriety, godliness, righteousness, and charity. There were other sorts of unity necessary indeed to the well-being of the Church, but yet not so absolutely essential but that a man in some extraordinary cases and circumstances might be incapacitated or hindered in the actual performance of them, without incurring the censure of breaking the unity of the Church, or being wholly excluded out of her communion.

Other sorts of unity necessary to the well-being of the Church.

It is every Christian's duty to unite himself to the Church by baptism, and to receive it from the hands of a regular ministry: it is his duty to join in communion with the Church where he lives, and assemble with them for worship and prayers, and administration of the word and sacraments, and all other holy offices: it is his duty to live under the government of a regular and lawful ministry, and submit himself to all the rules of the Church in worship and discipline, that are not contrary or repugnant to the Word of God. But then it may happen that a man cannot have baptism, though he be never so desirous of it; sudden death may prevent him, whilst he is seriously preparing for it. In this case the Church did not deny him her communion, though he was never formally entered into it, but accepted the will for the deed, and treated him after death as one of her sons dying in her bosom and communion. Which was the case of many martyrs, and others dying without baptism, not out of contempt, but by the exigence of some unforeseen accident preventing them. So again it might happen, that a man in extremity, when he was desirous of baptism, could not have it but from the hands of an heretic or a layman. In this case the Church was equally favourable to the party so baptized, because he was united in

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heart and will to the Church, and it was not contempt of her ministry, but necessity that drove him to receive baptism from an heretic or a layman, rather than die without it. In like manner a man that was very desirous to join with the Church in her public assemblies, might notwithstanding by some great exigence be debarred from this privilege, as by sickness, or imprisonment, or banishment: in which case he was not divided from the communion of the Church in worship or prayers; but his spirit was still present in her religious assemblies, though necessity obliged him in body to be absent from them. Or if it were but the care of the indigent that required his help, and kept him away from the solemn meeting in God's house, his reason was good, and such an act was no breach of Christian unity, because God himself allows it; nay, requires it by his own rule, "I will have mercy, and not sacrifice:" which in such cases, where men act sincerely and trifle not with God, is always their justification, both before God and his Church.

It was further required, that men should comply with all the innocent customs and lawful orders of the Church; and especially submit to her discipline in case of any scandalous transgression or immorality: but if men by reason of sickness, or infirmity, or old age, could not observe her rules about fasting; or by reason of their poverty could not abstain from their ordinary labour to attend her festivals; these were not reckoned transgressions of her rules or good order, because they naturally admitted of such limitations and exceptions: and no man was accused as a divider of the Church's unity for going against her customs in such cases. So, though it was required that penitents under discipline should be reconciled to the Church by imposition of hands and absolution, yet if any real penitent who was desirous of absolution happened to be struck dumb, or die before he could receive it, this was reckoned no prejudice to his condition: in this case his good will and desire and intention of being reconciled was reputed sufficient to restore him to the peace and unity of the Church, though he wanted the formality of an external absolution.

This was the great difference between those sorts of unity which were reckoned fundamental and essential to the very being of a Church, and those which were required as necessary

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to the well-being of it: the former admitted of no dispensations; but the latter did in these and the like cases. No case could dispense with a man's putting away a good conscience, or making shipwreck of faith: no necessity could be so great as to justify a man in denying an essential or fundamental truth, or in living in open and professed violation of those necessary rules and great lines of duty, which require the practice of universal holiness in a godly, righteous, sober life, as the indispensable condition of salvation: but several necessities might dispense with men in the non-observance of the things of the latter kind; and therefore it is of great use carefully to distinguish these things in speaking of the unity of the Church. As therefore I have spoken particularly of the former, so I will now speak a little more distinctly of these latter, and show how far the Ancients urged the necessity of them.

Among these they reckoned, first, the necessary use of one baptism, ordinarily to be administered by the hands of a regular ministry.

4. And here first of all they required that men should unite themselves to the Church by baptism, and that administered but once; and this also to be administered ordinarily by the hands of a regular ministry, except some urgent necessity obliged them to do otherwise. The necessity of baptism they urged from the tenour of the commission given to the Apostles, "Go, baptize all nations:" and from those words of our Saviour, "Except a man be born of water and the Spirit, he cannot enter into the kingdom of God." (John 3, 5.) There were many heretics, who contemned the use of water-baptism as a carnal ordinance, and wholly denied the necessity of it to salvation in any case whatsoever, of whom I have given a particular account[29] in a former Book. Against these they urged the necessity of baptism in all ordinary cases, to make men members of the Church; and strenuously maintained, that men who wilfully neglected or despised baptism could not by any other means be united to the Church of Christ, or have any grounds for hope of eternal life; because they despised that ordinance of Christ which he had made the regular and ordinary way of admitting members into his Church, and refused to enter by that door which he had appointed to be the general entrance to eternal life.

[29] B. 10. ch. 2. v. 4. p. 15.

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This opinion of the Ancients concerning the necessity of baptism in all ordinary cases, maintained against those several heresies, the reader may find fully discoursed in a foregoing part[30] of this work; where I observed, that though they strictly urged the necessity of baptism in order to make men members of the Church and sons of God; expressing themselves severely against all that either carelessly neglected it, or profanely despised it; yet they did not believe it to be so simply and absolutely necessary as the unity of faith and repentance: because they always maintained, that the bare want of baptism, where there was no contempt, might be supplied by martyrdom; where the exhibiting of faith, and the greatest testimony of obedience that could be given, was sufficient to unite them to Christ and his Church in that case, and grant them all the privileges of Christian communion. And the like was determined concerning the faith and repentance of such catechumens as were piously preparing for baptism, but were snatched away by sudden death before they had any opportunity to receive it. Which shows that they put a manifest difference between the unity of faith and obedience, as fundamental and essential to the very being of a Church, the want of which nothing could supply; and the unity of baptism, which though ordinarily necessary to the well-being of the Church, yet was not so absolutely necessary and essential, but that the want of it might be supplied in some cases by faith and obedience; and by these a martyr or a pious catechumen might be presumed to die in the unity of the Church without baptism, when they had no opportunity to receive it.

The form of baptism itself indeed, whenever it was administered, was a little more necessary, because that implied a profession of faith in the Holy Trinity, and universal obedience to the laws of Christ; and therefore baptism administered in any other form was reputed null and void even in the Church itself, and was of necessity to be repeated; but then this necessity did not rise from the bare necessity of baptism, which might, as we have heard, be dispensed with in some cases, but from the necessity of faith and obedience, presupposed as antecedent qualifications, essential to the very being of a Church,

[30] B. 10. ch. 2. s. 19. v. 3. p. 475.

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and the character of a Christian in the largest denomination. So that what made this so absolutely necessary was not the absolute necessity of baptism itself, which might be dispensed with in some extraordinary cases, where those qualifications were really in the hearts of men before baptism: but it was the want of those qualifications, or at least the want of professing them in due form, that made the baptism void; because there was a strong presumption that they had not those qualifications that were essential to the very being of a Christian, since no profession was made of them in their baptism. For which reason, whether it was given in the Church, or out of the Church, it was always to be repeated, as a thing null and void, for want of those qualifications of faith and obedience, which were so indispensably required to make a man a Christian.

It was necessary also to the unity of the Church in its well-being that baptism should ordinarily be administered only by the hands of a regular ministry: and therefore for either laymen without a commission in the Church to usurp this authority, or for heretics and schismatics without the Church to assume this power, was always esteemed a great breach of the Church's unity. And though the Church did not always annul such baptisms, if given in due form of words; yet she always condemned the thing as an usurpation, and an act of criminal schism, and manifest prevarication both in the giver and voluntary receiver. Insomuch that one of the ancient Councils[31] orders, 'that if any Catholic offered his children to be baptized by heretics, his oblation should not be received in the Church.' This was in effect to punish him with excommunication, as an encourager of heretics, and a divider of the unity of the Church. And St. Jerom[32] says, to the same purpose, 'If a man, who is orthodox in his own faith, is wittingly and willingly baptized by heretics, he deserves no pardon for his crime.' But then it might happen, that a man in extremity might be so distressed as to have none but an heretic to baptize him; in

[31] C. Ilerdens. c. 13. (t. 4. p. 1613 b.) Catholicus, qui filios suos in hæresi baptizandos obtulerit, oblatio illius in ecclesia nullatenus recipiatur.

[32] Dialog. cum Lucifer. c. 5. [al. 12.] (t. 2. p. 184 a.) Si jam ipse bene credebat, et sciens ab hæreticis baptizatus est, erroris veniam non meretur.

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which case, to receive baptism from the hands of an heretic or schismatic was reckoned no breach of Catholic unity, because the man in heart and mind was still united to the Catholic Church. This is St. Austin's[33] resolution of the case. 'If a man,' says he, 'is compelled by extreme necessity, where he cannot have a Catholic to give him baptism, to take it at the hands of one who is not in Catholic unity; in that case we reckon him no other than a Catholic still, though he died immediately, because he was in heart and mind a Catholic, and would have been baptized in Catholic unity, if there had been any opportunity to have done it. If such an one survives, and corporally joins himself to the Catholic congregation, from which in heart he never departed, we not only not disallow what he has done, but securely and truly commend him for it: because he believed God to be present in his heart, where he preserved unity, and would not depart out of this life without the sacrament of baptism, which he knew to be God's, and not men's, wheresoever he found it. But if any one, when he might receive it in the Catholic Church, by some perverseness of mind, chooses rather to be baptized in schism, though he afterward design to return to the Church, because he is certain the sacrament will profit him in the Church, but not elsewhere, though he may receive it elsewhere: this is a perverse and wicked man, and so much the more perniciously such, by how much the more knowing he is.' In another place[34] he proposes

[33] De Bapt. l. 1. c. 2. (t. 9. p. 81 b.) Nam si quem forte coegerit extrema necessitas, ubi Catholicum per quem accipiat non invenerit, et in animo pace Catholica custodita, per aliquem extra Catholicam unitatem [positum] acceperit, quod erat in ipsa Catholica unitate accepturus, si statim etiam de hac vita emigraverit, non eum nisi Catholicum deputamus. Si autem fuerit a corporali morte liberatus, cum se Catholicæ congregationi etiam corporali præsentia reddiderit, unde nunquam corde discesserat, non solum non improbamus quod fecit, sed etiam securissime verissimeque laudamus: quia præsentem Deum credidit cordi suo, ubi unitatem servabat; et sine sancti baptismi sacramento, quod ubicunque invenit, non hominum sed Dei esse cognovit, noluit ex hac vita migrare. Si quis autem, cum possit in ipsa Catholica accipere, per aliquam mentis perversitatem eligit in schismate baptizari; etiamsi postea venire ad Catholicam cogitat, quia certus est ibi prodesse sacramentum, quod alibi accipi quidem potest, prodesse autem non potest; procul dubio perversus et iniquus est, et tanto perniciosius, quanto scientius.

[34] Ibid. l. 6. c. 5. (p. 164 a.) .... Potest salubriter accipere [scil. a separato], si ipse non separatus accipiat: sicut plerisque accidit, ut Catholico animo et corde ab unitate pacis non alienato, aliqua necessitate mortis urgentis in aliquem hæreticum irruerent, et ab eo Christi

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the same question, Whether a Catholic without breach of unity might receive baptism from a schismatic? and he answers it after the same manner: 'That he may safely receive it of a separatist, if he himself be no separatist when he receives it; for so it often happens to men, who have a Catholic mind, and an heart no ways alienated from the unity of peace, that in extreme necessity and danger of imminent death they light upon some heretic, and receive the baptism of Christ at his hands, but not with the perverseness or heretical pravity of the administrator. For whether they die or live, they do not remain among heretics, to whom in heart they never went over.' So again, distinguishing baptized persons into three sorts; first, such as are baptized in the house of God, and are truly and spiritually of the house of God; secondly, such as are baptized in the house of God, but are spiritually by wicked works separated from it; thirdly, such as are baptized in heresy or schism, who are corporally separated from the house of God, and worse than those who live carnally within it, and are only spiritually divided from it; he adds[35],—'Concerning this last sort, who are rather to be said to be *of* the house of God than *in* it, being further separated by corporal division, than those who are only spiritually divided from it, that they neither have baptism to any profit themselves, neither is it received with any profit from them, except where the necessity of receiving it forces a man to receive it from them, and the mind of the receiver does no ways recede from the bond of unity.' By which is intimated, that to receive baptism in case of necessity from the hands of an heretic or schismatic, does not involve a man in the guilt of schism, so long as it is a case of extreme necessity, and the man in heart and mind is all the time in the unity of the Catholic Church.

The case was the same with those that were baptized by laymen. The rules of the Church required, that none should baptize, in ordinary cases, but the regular and lawful ministers of

baptismum sine illius perversitate perciperent, et sive defuncti, sive liberati, nequaquam apud eos remanerent, ad quos nunquam corde transierant.

[35] Ibid. l. 7. c. 52. (p. 201 d.) Qui autem separatiores non magis in domo quam ex domo sunt, neque omnino utiliter habent, neque ab eis utiliter accipitur, nisi forte accipiendi necessitas urgeat, et accipientis animus ab unitatis vinculo non recedat.

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the Church; and to do otherwise, was always a note of criminal schism: but in case of extremity, she granted a general commission even to laymen to baptize, rather than any person in such an exigence should die without baptism; and in such a case, to receive baptism from a layman was neither usurpation nor schism in the giver or receiver, because they had the Church's authority for the action. I produce no proofs or evidence for this here, because I have done it fully in a separate discourse before[35], treating historically of the practice of the Church in reference to her allowance of baptism administered by laymen, in cases extraordinary, when men were in apparent danger of death, and could not have a minister to baptize them.

In all these cases, we see, nothing but extreme necessity could excuse men from criminal schism, in dividing themselves from the Church, either by the neglect of baptism, or seeking to heretics, or schismatics, or laymen for the administration of it. And the like is to be said of any man's suffering himself to be rebaptized, after he had once received a true baptism, whether in the Church or out of it. For the unity of baptism was such, that it was never to be repeated. The greatest apostates were never rebaptized by the Catholic Church upon their admission again, but taken in by imposition of hands and absolution upon their repentance. Neither did the Church ever rebaptize those that were baptized in heresy or schism, except when some doubt was made, whether the baptism was defective in some essential part of it. And therefore because many heretics were inclined to rebaptize the Catholics, very severe laws were made, both in Church and State, to repress this insolence: of which I have given a particular account in handling the subject of baptism heretofore[36], and need only now observe, that this practice of rebaptizing was always esteemed a schismatical act, and a notorious breach of Catholic unity, which never allowed of more than one baptism, according to that rule of the Apostle, "One Lord, one faith, one baptism," [Eph. 4, 5.] in the Church, as many of the Ancients expound it; or, at least, because by the divine will it was so appointed.

Secondly, the unity

5. Another sort of unity, requisite to the well-being of the

[35] [Scholastic History of Lay-Baptism. London, 1712. 8vo. Reproduced in the ninth volume of this edition. Ed.]

[36] B 12. ch. 5. s. 7. v. 4. p. 243.

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Church, was the unity of worship, whereby all Christians were obliged to join with their respective Churches in the performance of all holy offices in public; such as common-prayer, and the administration of the word and sacraments. Which did not require that all Churches should exactly agree in the same form of words, which were not essential to these things: for, as we shall presently see, every Church was at liberty to make choice for herself, in what method and form of words she should perform these things: and it was no breach of unity for different Churches to have different modes, and circumstances, and ceremonies, in performing the same holy offices, so long as they kept to the substance of the institution: but that, which was required to keep the unity of the Church in these matters, was, that every particular member of any Church should comply with the particular custom and usages of his own Church, (nothing being inserted into her offices that was unlawful,) and meet for religious worship, and hold constant communion with her in the performance of all divine services. And to do otherwise, either by neglecting wholly the service of religious assemblies, or setting up opposite communions, or raising unnecessary disputes about the lawful usages and innocent practices of the Church, whereof a man was a member, was always esteemed an act of criminal schism, as giving scandal and offence to the Church and his brethren.

of worship in joining with the Church in prayers, administration of the word, and sacraments.

There are several canons in the Council of Gangra, made against the separatists called *Eustathians*, directly to this purpose. The fourth canon[37] runs thus: 'If any one separate from a married presbyter, upon pretence that it is unlawful to partake of the oblation, when he performs the liturgy, or celebrates the office of communion, let him be *anathema*:' that is, excommunicate, or cut off from the Church. The fifth canon[38] is to the same effect: 'If any one teach, that the house of God, and the assemblies held therein, are to be despised, let him be *anathema*.' The sixth[39] forbids all private and irregular as-

[37] [C. 4. (t. 2. p. 419 a.) Εἴ τις διακρίνοιτο παρὰ πρεσβυτέρου γεγραμηκότος, ὡς μὴ χρῆναι λειτουργήσαντος αὐτοῦ προσφορᾶς μεταλαμβάνειν, ἀνάθεμα ἔστω.

[38] C. 5. (ibid. a.) Εἴ τις δίδασκοι, τὸν οἶκον τοῦ Θεοῦ εὐκαταφρόνητον εἶναι, καὶ τὰς ἐν αὐτῷ συνάξεις, ἀνάθεμα ἔστω.

[39] C. 6. (ibid. a.) Εἴ τις παρὰ τὴν ἐκκλησίαν ἰδίᾳ ἐκκλησιάζοι, καὶ καταφρονῶν τῆς ἐκκλησίας τὰ τῆς ἐκκλησίας ἐθέλοι πράττειν, μὴ συνόντος τοῦ πρεσβυτέρου κατὰ γνώμην τοῦ ἐπισκόπου, ἀνάθεμα ἔστω. *Grischov.*]

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semblies: 'If any hold other assemblies privately out of the church, and contemning the church will have ecclesiastical offices performed without a presbyter licensed by the bishop, let him be *anathema*.' The eleventh[40] censures those in like manner, who despised the feasts of charity, made in honour of the Lord, refusing to partake of them. The eighteenth[41] censures 'such as fasted on the Lord's-day, under pretence of leading an ascetic life;' this being a thing contrary to the general rule and custom of the Church. The nineteenth[42], on the other hand, censures 'such ascetics as, without the excuse of bodily infirmity, out of mere pride, contemptuously broke the common fasts handed down by tradition to be observed in the Church.' And the twentieth canon[43] anathematizes those 'who, from an insolent disposition, contemned the assemblies that were wont to be held in the churches of the martyrs, and the service performed there, and the commemorations of them.' Among the Apostolical Canons there is one[44] to the same purpose, which orders, 'that if any presbyter, despising his bishop, gather a separate congregation, and erect another altar, having nothing to object against his bishop in point of godliness or righteousness, he should be deposed as a lover of pre-eminence, and arbitrary power or tyranny in the Church. And if any of the clergy conspired with him, they were likewise to be deposed, and laymen to be suspended from the communion, after a third admonition given them from the bishop.'

These were some of the ancient rules relating to separatists, dividing wholly from the Church, and refusing contemptuously

[40] [C. 11. (ibid. c.) Εἴ τις καταφρονοίη τῶν ἐκ πίστεως ἀγάπας ποιούντων, καὶ διὰ τιμὴν τοῦ Κυρίου συγκαλούντων τοὺς ἀδελφοὺς, καὶ μὴ ἐθέλοι κοινωνεῖν ταῖς κλήσεσι, διὰ τὸ ἐξευτελίζειν τὸ γινόμενον, ἀνάθεμα ἔστω.

[41] C. 18. (ibid. p. 424 b.) Εἴ τις διὰ νομιζομένην ἄσκησιν ἐν τῇ Κυριακῇ νηστεύοι, ἀνάθεμα ἔστω.

[42] C. 19. (ibid. b.) Εἴ τις τῶν ἀσκουμένων χωρὶς σωματικῆς ἀνάγκης ὑπερηφανεύοιτο, καὶ τὰς παραδεδομένας νηστείας εἰς τὸ κοινὸν, καὶ φυλασσομένας ὑπὸ τῆς ἐκκλησίας, παραλύοι, ἀποκυροῦντος ἐν αὐτῷ τελείου λογισμοῦ, ἀνάθεμα ἔστω.

[43] C. 20. (ibid. c.) Εἴ τις αἰτιῶτο, ὑπερηφάνῳ διαθέσει κεχρημένος, καὶ βδελυσσόμενος τὰς συνάξεις τῶν μαρτύρων, ἢ τὰς ἐν αὐτοῖς γινομένας λειτουργίας, καὶ τὰς μνήμας αὐτῶν, ἀνάθεμα ἔστω. *Grischov.*]

[44] C. 30. al. 32. (Cotel. [c. 24.] v. 1. p. 441.) Εἴ τις πρεσβύτερος καταφρονήσας τοῦ ἰδίου ἐπισκόπου χωρὶς συναγάγῃ, καὶ θυσιαστήριον ἕτερον πήξῃ, μηδὲν κατεγνωκὼς τοῦ ἐπισκόπου ἐν εὐσεβείᾳ καὶ δικαιοσύνῃ, καθαιρείσθω ὡς φίλαρχος· τύραννος γάρ ἐστιν· καὶ οἱ λοιποὶ κληρικοὶ, ὅσοι ἂν αὐτῷ προσθῶνται· οἱ δὲ λαϊκοὶ ἀφοριζέσθωσαν. Ταῦτα δὲ μετὰ μίαν καὶ δευτέραν, καὶ τρίτην τοῦ ἐπισκόπου παράκλησιν γινέσθω.

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to communicate with her in divine service. And for such as frequented some part of the service, but fell off from the rest, she set an equal mark of reproach upon them, as disobedient children also. One of the Apostolical Canons[45] orders all communicants, who came to church to hear the Scriptures read, but did not stay to join in prayers and receiving the eucharist, to be suspended, as authors of confusion and disorder in the Church. And the Council of Antioch[46] repeats, and reinforces this canon. The Council of Eliberis[47] forbids the bishop to receive the oblations of such as did not communicate: which was in effect to cut them off from communion with the Church, for the neglect of that principal part of divine service. The same Council in another canon[48] orders, 'that if any one, being at home in his own city, did for three Lord's-days together absent himself from church, he should be suspended from the communion for an equal term, that he might be made sensible of his crime by the Church's censure.' The Council of Sardica, not long after, made a decree to the same purpose, referring to some former canon that had been made upon this matter, which, though some learned men are at a loss to know what canon it was, seems plainly to be this canon of the Council of Eliberis. For Hosius, bishop of Corduba, was present at both these Councils, and presided in that of Sardica, which makes it probable that he referred to the canon of Eliberis, when he proposed it to the fathers at Sardica for their consent and approbation. For the Council of Sardica[49] repeats a canon made in some former Council, importing, 'that a layman, absenting from church for three Lord's-days together, without just cause or impediment, was to be excommunicated for his transgression:' and the same is repeated in the Council of Trullo[50]. So

[45] C. 7. al. 10. [Labb. c. 9.] See before, b. 15. ch. 4. s. 1. v. 5. p. 351. n. 36.

[46] C. 2. See before, ibid. p. 352. n. 37.

[47] C. 28. See before, ibid. ch. 9. s. 1. v. 5. p. 538. n. 67.—Conf. C. Tolet. 1. c. 13. See ibid. n. 68.

[48] C. 21. (t. 1. p. 973 b.) Si quis in civitate positus tres Dominicas [ad] ecclesiam non accesserit, tanto [al. pauco] tempore abstineat, ut correptus esse videatur.

[49] C. 11. (t. 2. p. 637 a.) Μέμνησθε καὶ ἐν τῷ προάγοντι χρόνῳ τοὺς πατέρας ἡμῶν κεκρικέναι, ἵνα εἴ τις λαϊκὸς ἐν πόλει διάγων τρεῖς Κυριακὰς ἡμέρας ἐν τρισὶν ἑβδομάσι μὴ συνέρχοιτο, ἀποκινοῖτο τῆς κοινωνίας.

[50] C. 80. (t. 6. p. 1178 a.) Εἴ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, ἢ τῶν ἐν κλήρῳ καταλεγομένων, ἢ λαϊκὸς, εἰ μηδεμίαν ἀνάγκην βαρυτέραν ἔχοι, ἢ πρᾶγμα δυσχερὲς, ὥστε ἐπὶ πλεῖστον ἀπολείπεσθαι τῆς αὐτοῦ ἐκκλησίας, ἀλλ' ἐν πόλει διάγων τρεῖς

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careful was the Church to preserve her members in the unity of divine worship, and discountenance all separatists whether partial or total, that an occasional communicant was liable to censure as well as any other.

But then there were some necessary reasons that might justly excuse a man from this duty of constant communion with his own Church. As if a man was in a journey, the very nature of the thing was his excuse: for he could not communicate with his own Church in such a necessity, and therefore the Council of Trullo delivers the rule with that limitation. If a man was sick and infirm, his infirmity was such an impediment, as all laws, both human and divine, would allow of as a reasonable cause of absenting. And the same reason would excuse his non-observance of the severe fasts of the Church, which were imposed upon none but those that were able to bear them, as appears from the forecited canon[51] of the Council of Gangra. The stationary days of fasting and prayer were chiefly designed for the exercise of religious ascetics, those who had both strength and leisure to attend them: and therefore an infirm man, or a poor man, who was to live by his bodily labour, was under no obligation to spend so much time in those ordinary returns of fasting and prayer. If he communicated with the Church religiously on the Lord's-days, his omissions of the rest were not imputed to him as breaking communion with the Church. If men were in prison or in banishment, the necessity of their confinement was their natural excuse. For how should they join bodily in communion with the Church, who had not the liberty of their own bodies, whilst they were entirely at the mercy and disposal of others? It was sufficient for them in such a case to join in spirit, when they could not in bodily presence; and to say with David, "As the hart panteth after the water-brooks, so panteth my soul after thee, O God. My soul thirsteth for God, for the living God: when shall I come and appear before God?" (Ps. 42, 1.) And, "Woe is me, that I am constrained to dwell with Mesech, and to have my habitation among the tents of Kedar." (Ps. 120, 4.) "O God, my soul thirsteth for thee, my flesh longeth after thee, in

Κυριακὰς ἡμέρας ἐν τρισὶν ἑβδομάσι μὴ συνέρχοιτο, εἰ μὲν κληρικὸς εἴη, καθαιρείσθω· εἰ δὲ λαϊκὸς, ἀποκινείσθω τῆς κοινωνίας.

[51] C. 19. See n. 42, preceding.

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a dry and thirsty land, where no water is; to see thy power and thy glory, so as I have seen thee in the sanctuary." (Ps. 63, 1 and 2.) It was their misfortune, and not their crime in that case, to be absent from the house of God: meanwhile the whole world was to them the temple of God: "For the earth is the Lord's, and the fulness thereof!" [See Ps. 24, 1, and 1 Cor. 10, 26 and 28.] Their prison was their oratory, and the wilderness a sanctuary; their own hearts a sacrifice, and their own bodies an altar. When Lucian the martyr made use of his own breast[52] in chains instead of a communion-table to offer the eucharist on, his sacrifice was as acceptable to God as if it had been in the midst of the Church upon an altar. For, as St. Basil[53] words it, 'in such a case it is not the place, but the mind and affection of the supplicant, that God regards. Moses was heard in the bottom of the sea, Job upon a dunghill, Ezekias in his bed, Jeremy in the dungeon, Jonas in the whale's belly, Daniel in the lions' den, the three children in the burning fiery furnace, the penitent thief upon the cross, and Peter and Paul in prison.' 'Every place,' says Dionysius of Alexandria[54], 'is instead of a temple in time of persecution, whether it be a field, or a wilderness, or a ship, or an inn, or a prison.'

There is a great difference to be made between necessity and contempt. If a man voluntarily absents himself from the assemblies of the Church, when he may enjoy them, he is a divider of her unity, by contemning her service: but if necessity obliges him to be absent, when he is desirous to be present, he is spiritually present with her even whilst he is absent in body: which is as much preserving her unity as his case will allow, or the Church can require: seeing this sort of unity is not simply essential to the being of a Church in all states, but only necessary to her well-being in peaceable times and ordinary cases. And happy would it be for the Church if men would never deny themselves the benefit of her communion in religious assemblies, but upon such reasons of necessity, which carry their own apology at first sight in their very nature: if they were merely passive, and not active, in their separation,

[52] See b. 15. ch. 4. s. 8. v. 5. p. 380. n. 20.

[53] Exhort. ad Bapt. ap. Durant. De Ritibus, l. 1. c. 2. n. 1. (p. 5.) Non enim locus, ait Basilius in Exhortat., &c.

[54] Ap. Euseb. l. 7. c. 22. See before, b. 15. ch. 4. s. 10. v. 5. p. 385. n. 43.

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such a separation would not involve them in the guilt of schism, being so rationally to be accounted for both before God and his Church.

The primitive Church was exceedingly happy in these two things, which relate to this sort of unity in communion, the want of which is so much to be lamented, both in its causes and effects in this unhappy divided state of the Church in later ages. First, that no Church then ever assumed to herself an authority of imposing upon her members any things unlawful, or contrary to the Word of God, either in faith or practice, as necessary terms of communion. They required no belief of any articles of faith, as necessary to salvation, but such as were contained in their common Creeds, and founded upon the infallible authority of Scripture. They inserted nothing into their public forms of worship repugnant to the Word of God, or intrenching upon any divine rule given in Scripture about the object or matter or manner of adoration: as any one may perceive, by considering the account that has been given of their public worship and liturgy in the three last books, where we examined every particular office of it. Things being thus secured for the substance of their worship, all Christian people in the next place thought it their duty to submit to the wisdom and prudence of their governors in establishing things external and circumstantial relating to expedience, edification, and good order.

And this was the second thing to be admired in the economy of the ancient Church, that the people never had any dispute with their superiors about matters of this kind, but left all indifferent things, and things of expediency, decency, circumstance, and form, to the judgment and choice of their governors, or persons invested with authority to determine such matters; readily complying with the innocent customs of the Church, and all the rules of public order, and never dividing into sects and parties upon the account of rites and ceremonies, though differently practiced in different Churches. This was according to the wise and peaceable rule laid down by St. Austin in his advice to Casulanus[53]. 'In those things,' says he,

[53] Ep. 86. [al. 36.] c. 1. (t. 2. p. 68 e.) Et quisquis tamen hunc diem jejunio decernendum putaverit, non parvo scandalo erit ecclesiæ, nec immerito. In his enim rebus, de quibus nihil certi statuit Scriptura

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'concerning which the holy Scripture has given no positive direction, the custom of the people of God, or the rules of our ancestors or superiors, are to be taken for a law.' He instances in the custom of the Church never to fast on the Lord's-day, which was become so much a rule, that whoever should pretend to introduce the contrary custom, to make it a fast, should be thought to give great scandal to the Church, and that not without good reason. 'Nay,' he says[54], 'it would be to offend God, so to scandalize the universal Church by holding a fast on the Lord's-day; especially since it was become the practice of the impious Manichees so to fast in opposition to the Church.' The Saturday-fast was not a custom of so general observation; for some Churches kept it a fast, and some a festival: but his advice as to this is much of the same nature[55], 'that a man should observe the custom of every Church, where he happened to be, if he was minded neither to give offence to them, nor take offence from them:' and this advice, he says, he had in his younger days from the mouth of St. Ambrose. But because in such a matter as this is, it might happen that not only different

divina, mos populi Dei, vel instituta majorum pro lege tenenda sunt.—Ibid. c. 7. (p. 74 c.).... Quis non Deum offendet, si velit cum scandalo totius, quæ ubique dilatata est [al. dilatatur], ecclesiæ, die Dominico jejunare?

[54] [Ibid. c. 12. (p. 78 f.) Die autem Dominico jejunare scandalum est magnum, maxime postea quam innotuit detestabilis multumque fidei Catholicæ Scripturisque divinis apertissime contraria hæresis Manichæorum, qui suis auditoribus ad jejunandum istum tanquam constituerunt legitimum diem; per quod factum est, ut jejunium diei Dominici horribilius haberetur. *Grischov.*]

[55] Ibid. c. 14. (p. 81 b.) Sed quoniam non invenimus... in evangelicis et apostolicis literis, quæ ad Novi Testamenti revelationem proprie pertinent, certis diebus aliquibus evidenter præceptum observanda esse jejunia, et ideo res quoque ista, sicut aliæ plurimæ, quas enumerare difficile est, invenit in veste illius filiæ regis, hoc est, ecclesiæ, varietatis locum; indicabo tibi, quid mihi de hoc requirenti responderit venerandus Ambrosius, a quo baptizatus sum, Mediolanensis episcopus. Nam cum in eadem civitate mater mea mecum esset, et nobis adhuc catechumenis parum ista curantibus, illa solicitudinem gereret, utrum secundum morem nostræ civitatis sibi esset Sabbato jejunandum, an ecclesiæ Mediolanensis more prandendum, ut hac eam cunctatione liberarem, interrogavi hoc supra dictum hominem Dei. At ille, *Quid possum*, inquit, *hinc docere amplius, quam ipse facio?* Ubi ego putaveram, nihil eum ista responsione præcepisse, nisi in Sabbato pranderemus; hoc quippe ipsum facere sciebam: sed ille secutus adjecit, *Quando hic sum, non jejuno Sabbato; quando Romæ sum, jejuno Sabbato: et ad quamcunque ecclesiam veneritis*, inquit, *ejus morem servate, si pati scandalum non vultis aut facere.* Hoc responsum retuli ad matrem eique suffecit, nec dubitavit esse obediendum: hoc etiam nos secuti sumus.

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Churches might practice differently, but also the members of the same Church might differ in their practice one from another without breach of communion, as it was in some of the African Churches, where in one and the same Church some chose to fast, others to dine upon the Sabbath, his advice to Casulanus[55] as a presbyter was, 'to follow the custom of those who had the care and government of the Churches committed to them.' 'Resist not your bishop in such a matter as this, but follow what he does without any scruple or disputation.'

Thirdly, the unity of subjection of presbyters and people to their bishop, and obedience to all public orders of the Church in matters of an indifferent nature.

6. And this leads us to consider another sort of unity, very necessary for the well-being of the Church: which was that the clergy and people should be united under one single bishop in every Church, paying a due respect to his authority, and not dividing from him either by setting up anti-bishops against him, or withdrawing from his communion or government, or despising the public orders of his Church, which were made for expedience and edification in matters of an indifferent nature. Cyprian has abundance relating to this sort of unity, considering both the state of his own and other Churches. 'The Church,' he says[56], 'is a people united to their bishop, and a flock adhering to their pastor.' Whence he infers 'that the bishop is in the Church and the Church in the bishop;' and 'that whoever are not with the bishop are not in the Church:' that is, none who voluntarily withdraw from his communion and set up others in opposition to it. To the same purpose he says again[57], 'that the ordination of bishops and the constitution of the Church came down by succession from the Apostles, so as that the Church stood upon its bishops, and

[55] Ibid. (p. 81 e.) Sed quoniam contingit maxime in Africa ut una ecclesia, vel unius regionis ecclesiæ, alios habeant Sabbato prandentes, alios jejunantes, mos eorum mihi sequendus videtur, quibus eorum populorum congregatio regenda commissa est.... Episcopo tuo in hac re noli resistere, et quod facit ipse, sine ullo scrupulo vel disceptatione sectare.

[56] Ep. 69. [al. 66.] ad Florent. p. 168. (p. 286.).... Ecclesia sunt plebs sacerdoti adunata, et pastori suo grex adhærens. Unde scire debes episcopum in ecclesia esse, et ecclesiam in episcopo; et si qui cum episcopo non sint, in ecclesia non esse.

[57] Ep. 27. [al. 33.] ad Laps. p. 66. (p. 216.) Inde per temporum et successionum vices, episcoporum ordinatio et ecclesiæ ratio decurrit, ut ecclesia super episcopos constituatur, et omnis actus ecclesiæ per eosdem præpositos gubernetur. Cum hoc itaque divina lege fundatum sit, miror quosdam audaci temeritate sic mihi scribere voluisse, ut ecclesiæ nomine literas facerent; quando ecclesia in episcopo et clero et in omnibus stantibus sit constituta, &c.

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every act of the Church was regulated by their direction as the chief governors of it.' And therefore when some lapsers wrote to him, giving themselves the name of *the Church*, he gave them a very sharp answer, telling them, 'he could not but wonder at their temerity and boldness, that they should style themselves *the Church*, when it was so plain by the divine law that a Church consisted of a bishop and clergy together with a people standing firm without lapsing in time of persecution; whereas no number of lapsers could be called a Church, since God was not the God of the dead but of the living.' In another place he severely rebukes the presumption of those presbyters who took upon themselves by their own authority to reconcile lapsers without consulting him, who was the chief manager and director of the discipline of the Church. This, he tells them[58], was 'to forget both the rules of the Gospel and their own station; neither thinking of the future judgment of the Lord nor the bishop that was now set over them, but assuming to themselves the whole power of discipline, both to the dishonour and contempt of their bishop and to the detriment of their brethren's salvation.'

It was an ancient rule in the Church that presbyters should do no ministerial act but by the authority of their bishop, and in dependence upon and subordination to him. This I have had occasion to show at large in a former Book[59], out of Ignatius, Cyprian, and the ancient Councils, which need not here be repeated. Therefore it was always reputed a tendency towards schism for presbyters to do any such act in contempt of their bishop, though they made no formal separation from him. But the most flagrant act of schism was when in despite of his authority their factious humour and pride pushed them on to divide from his communion and set up separate assemblies in opposition to him. 'This,' says St. Cyprian[60], 'is the first

[58] Ep. 10. [al. 16.] ad Cler. p. 36. (p. 194.) .... Aliqui de presbyteris, nec evangelii, nec loci sui memores, sed neque futurum Domini judicium, neque nunc sibi præpositum episcopum cogitantes... cum contumelia et contemptu præpositi totum sibi vindicant, &c.

[59] B. 2. ch. 3. s. 2, &c. v. 1. p. 73.

[60] Ep. 65. [al. 3.] ad Rogatian. p. 6. (p. 173.) Hæc sunt enim initia hæreticorum, et ortus atque conatus schismaticorum male cogitantium, ut sibi placeant, et præpositum superbo tumore contemnant. Sic de ecclesia receditur, sic altare profanum foris collocatur, sic contra pacem Christi et ordinationem atque unitatem Dei rebellatur.

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beginning of heretics, the first rise and attempt of schismatics, men of evil dispositions, to please themselves, and with a swelling pride contemn the bishop that is set over them. The effect of which is presently to forsake the Church, and set up another profane altar without, and to rebel against the peace of Christ and the ordination and unity of God.' 'Most heresies and schisms take their birth,' says he again[61], 'from this original, that men refuse to submit to the bishop appointed by God, and consider not that there ought to be but one bishop at once in a Church, and but one judge in the room of Christ.' This he speaks particularly against those who thought to justify their schism by setting up an anti-bishop in opposition to the true one: which did not diminish the schism, but did heighten and augment it, and commonly render it more inveterate and lasting. As it was in the case of the Meletians in Egypt, and the Donatists in Africa, and the Novatians at Rome, who all carried on their schisms more powerfully by the help of anti-bishops to strengthen their party and uphold their faction. But this was no just pretence for schism; but a manifest violation of the standing rule of the Catholic Church, which was to have but one bishop in a Church as the centre of unity: and to set up another in opposition to him was not to make another true bishop or pastor of the flock, to whom the people were obliged to join themselves as the minister of God; but to introduce a wolf, an adulterer, a sacrilegious usurper, a stranger and an alien, from whom they were obliged to fly as from one who had no title to their obedience by any divine appointment or allowed rule of ordination.

I have more than once fully demonstrated this[62] out of the writings of Cyprian and others of the Ancients, to which it is here sufficient to refer the reader. I only note one thing out of Cyprian[63], which he applies particularly to the case of the

[61] Ep. 55. [al. 59.] ad Cornel. p. 129. (p. 261.) .... Neque enim aliunde hæreses obortæ sunt, aut nata sunt scandala, quam inde quod sacerdoti Dei non obtemperatur, nec unus in ecclesia ad tempus sacerdos, et ad tempus judex vice Christi rogitatur.

[62] See b. 2. ch. 13. s. 1. v. 1. p. 150. See also Scholastic History of Lay-Baptism, part 2. ch. 2., in the ninth volume of this edition.

[63] Ep. 44. [al. 46.] ad Maxim. et Nicostrat. Confessor. (p. 232.) Gravat me .. cum vos illic comperissem contra ecclesiasticam dispositionem, contra evangelicam legem, contra institutionis Catholicæ unitatem, alium episcopum fieri consensisse, id est, quod nec fas est nec licet fieri,

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Novatian schism, that to set up such an anti-bishop to head a faction was 'to act against the settlement of the Church, the laws of the Gospel, and the unity of the Catholic institution: it was to make another Church, to tear the members of Christ, and disjoint that one body and soul of the Lord's flock by a dividing emulation.' And therefore he tells Maximus and Nicostratus, and other confessors, who were concerned in upholding and abetting the Novatian schism, 'that they were not asserting the Gospel of Christ, whilst they divided themselves from the flock of Christ, and were not in peace and concord with his Church.' It is usual with him upon this account to say[64], 'He has not God for his father who has not the Church for his mother. Whoever is separated from the Church to be joined to an adulteress is separated from the promises of the Church: he cannot come to the rewards of Christ who leaves the Church of Christ: he is an alien, he is profane, he is an enemy:' and 'that martyrdom itself, which was accounted in many cases equivalent to baptism, would not expiate this crime, unless the offended party returned to the unity of the Church.' 'For what peace,' says he[65], 'can they promise themselves who

ecclesiam aliam constitui; Christi membra discerpi, Dominici gregis animum et corpus unum discissa æmulatione lacerari.... Nec putetis sic vos evangelium Christi asserere, dum vosmet ipsos a Christi grege et ab ejus pace et concordia separatis.

[64] De Unit. Eccles. p. 109. (p. 78.) Quisquis, ab ecclesia segregatus, adulteræ jungitur, a promissis ecclesiæ separatur. Nec pervenit ad Christi præmia, qui relinquit ecclesiam Christi. Alienus est, profanus est, hostis est. Habere jam non potest Deum Patrem, qui ecclesiam non habet matrem, &c.

[65] Ibid. p. 113. (p. 81.) Quam sibi igitur pacem promittunt inimici fratrum? Quæ sacrificia celebrare se credunt æmuli sacerdotum? An secum esse Christum, cum collecti fuerint, opinantur qui extra Christi ecclesiam colliguntur? Tales etiamsi occisi in confessione nominis fuerint, macula ista nec sanguine abluitur. Inexpiabilis et gravis culpa discordiæ nec passione purgatur. Esse martyr non potest, qui in ecclesia non est: ad regnum pervenire non poterit, qui eam, quæ regnatura est, derelinquit. Pacem nobis Christus dedit: concordes atque unanimes esse præcepit: dilectionis et caritatis fœdera incorrupta atque inviolata servari mandavit: exhibere se non potest martyrem, qui fraternam non tenuit caritatem. Docet hoc et contestatur Paulus Apostolus, dicens, *Et si habuero fidem, ita ut montes transferam, caritatem autem non habeam, nihil sum. Et si in cibos pauperum distribuero omnia mea, et si tradidero corpus meum ut ardeam, caritatem autem non habeam, nihil proficio. Caritas magnanima est, caritas benigna est, caritas non æmulatur, non agit perperam, non inflatur, non irritatur, non cogitat malum. Omnia diligit, omnia credit, omnia sperat, omnia sustinet: caritas nunquam excidit. Nunquam,* inquit, *excidit caritas:* hæc enim semper in regno erit: hæc in æternum fra-

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die in enmity with their brethren? What sort of sacrifices do they think they offer who rival the priests with emulation? Do they imagine Christ is with them when they are assembled, who assemble out of the Church of Christ? Such men, though they be slain for the confession of his name, do not wash away the stain with their blood. The inexpiable and grievous crime of dissension is not purged away by their passion: he cannot be a martyr that is not in the Church: he cannot attain to the kingdom who deserts the Church, which is to have the kingdom. Christ commended peace to us; he commanded us to be unanimous and united together in concord; he enjoined us to keep the bonds of love and charity firm and inviolable. He cannot make himself a martyr that retains not brotherly charity. St. Paul [1 Cor. 13, 2–8.] teaches us this, and testifies saying, "Though I have all faith, so that I could remove mountains, and have not charity, I am nothing. And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not charity, it profiteth me nothing. Charity suffereth long, and is kind; charity envieth not; doth not behave itself unseemly, is not puffed up, is not easily provoked, thinketh no evil, loveth all things, believeth all things, hopeth all things, endureth all things. Charity never faileth:" it will always be in possession of the kingdom; it will endure for ever in the unity of that fraternity which adheres together. But discord cannot attain to the kingdom of heaven, nor come to the reward of Christ, who said, "This is my commandment, that ye love one another, as I have loved you." He cannot appertain to Christ who violates the love of Christ by perfidious dissension. He that hath not love hath

ternitatis sibi cohærentis unitate durabit. Ad regnum cœlorum non potest pervenire discordia; nec præmium Christi, qui dixit, *Hoc est mandatum meum, ut diligatis invicem, quemadmodum dilexi vos.* Pertinere non poterit ad Christum, qui dilectionem Christi perfida dissensione violavit. Qui caritatem non habet, Deum non habet. Joannis beati apostoli vox est, *Deus*, inquit, *dilectio est; et qui manet in dilectione, in Deo manet, et Deus in illo manet.* Cum Deo manere non possunt, qui esse in ecclesia Dei unanimes noluerunt; ardeant licet flammis et ignibus traditi, vel objecti bestiis animas suas ponant; non erit illa fidei corona, sed pœna perfidiæ; nec religiosæ virtutis exitus gloriosus, sed desperationis interitus. [Vid. etiam Ep. 52. [al. 55.] ad Antonian. pp. 108, 114. (p. 244.) Neque enim possunt laudare nos, &c.—Ep. 57. [al. 60.] ad Cornel. p. 118. (p. 270.) .... Agnoscit ne jam qui sit sacerdos Dei? &c. Ed.]

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not God. It is the voice of the blessed Apostle St. John: "God is love; and he that dwelleth in love dwelleth in God, and God in him." They cannot dwell with God who would not abide unanimously in the Church of God: though they burn in the flames, though they be cast into the fire, or thrown to wild-beasts, and so lay down their lives; that will not be the crown of their faith, but the punishment of their perfidiousness; not the glorious exit of a religious virtue, but a death of desperation. *Such an one may be slain, but he cannot be crowned,—Occidi talis potest, coronari non potest.*' Cyprian often repeats this assertion in other places of his writings, which for brevity's sake I omit, and particularly applies it to the schism of the Novatians, who broke the unity of the Church by setting up Novatian their leader as anti-bishop against Cornelius the lawful bishop of Rome; who being once regularly chosen and invested in his office, no other could intrude himself into the same place without dividing the unity of the Church. Which was not the singular opinion of St. Cyprian, but the voice of the whole Catholic Church, as I have had occasion to demonstrate more fully in another discourse[66], to which I refer the reader for greater satisfaction. Neither was it any private opinion of Cyprian, that a schismatic continuing a schismatic without repentance could not be a martyr; but herein he is followed by the greatest lights of the Church, St. Chrysostom[67], St. Austin[68], Fulgentius[69], and others, who cite

[66] Scholastic History of Lay-Bapt. pt. 2. ch. 2. s. 4. See before, p. 18. n. 35.

[67] Hom. 11. in Eph. (t. 11. p. 86 c.) *Ἀνήρ δέ τις ἅγιος εἴπέ τι δοκοῦν εἶναι τολμηρὸν, πλὴν ἀλλ' ὅμως ἐφθέγξατο· τί δὴ τοῦτό ἐστιν; Οὐδὲ μαρτυρίου αἷμα ταύτην δύνασθαι ἐξαλείφειν τὴν ἁμαρτίαν ἔφησεν.*

[68] Ep. 61. [al. 204.] (t. 2. p. 765 f.) Jam enim nescio quoties disputando et scribendo monstravimus, non eos posse habere martyrum mortem, quia Christianorum non habent vitam, cum martyrem non faciat pœna, sed caussa.—Ep. 204. [al. 173.] (t. 2. p. 614 f.) Foris autem ab ecclesia constitutus, et separatus a communione unitatis et vinculo caritatis, æterno supplicio punireris, etiamsi pro Christi nomine vivus incendereris. [Vid. De Bapt. l. 4. c. 17. (t. 9. p. 135 g.)—Cont. Lit. Petilian. l. 2. c. 23. (ibid. p. 232 g.) Ed.]

[69] Int. Oper. Augustin. (t. 6. append. p. 27 e.).... Ideo debet ad ecclesiam redire, non ut sacramentum baptismatis iterum accipiat, quod nemo debet in quolibet homine baptizato repetere: sed ut in societate Catholica vitam æternam accipiat, ad quam obtinendam nunquam potest esse idoneus, qui cum sacramento baptismatis ab ecclesia Catholica remanserit alienus. Qui si eleemosynas largas faciat, et pro nomine Christi etiam sanguinem fundat, pro eo, quod in hac vita non tenuit ecclesiæ Catholicæ unitatem, non habebit æternam salutem.—C. 39. (ibid. p. 32 b.) Firmissime tene et nul-

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this saying of his with approbation, which shows what weight they laid upon this sort of unity of submission and obedience to every lawful bishop in the regular management of the affairs of his own Church.

But we must note, that this obedience was only due to bishops, when they could make out a just title to it by the standing rules of the Catholic Church. For, first, if any man came into his office by a simoniacal ordination, his ordination by the canons[70] was declared null and void: and then no obedience was due to him, nor any communion to be held with him, as a bishop of the Church. Secondly, if a man intruded himself into a full see, where another bishop was regularly ordained before him, it was so far from being a duty to pay obedience to him, that it was the very crime of schism we have now been speaking of in the Novatians of old, to separate from the true bishop by joining with an invader set up against him. Thirdly, if a bishop fell into manifest heresy or idolatry, the people were not only at liberty, but obliged in point of duty to separate from his communion as an intolerable prevaricator and transgressor. Thus Cyprian[71] tells the people of Leon and Astorga in Spain, with relation to Martialis and

latenus dubites, quemlibet hæreticum sive schismaticum in nomine Patris et Filii et Spiritus Sancti baptizatum, si ecclesiæ Catholicæ non fuerit aggregatus, quantascunque eleemosynas fecerit, et si pro Christi nomine etiam sanguinem fuderit, nullatenus posse salvari. Omni enim homini, qui ecclesiæ Catholicæ non tenet unitatem, neque baptismus, neque eleemosyna quamlibet copiosa, neque mors pro nomine Christi suscepta proficere poterit ad salutem, quando in eo vel hæretica vel schismatica pravitas perseverat, quæ ducit ad mortem.

[70] Vid. C. Apost. 29. [al. 30.] (Cotel. [c. 22.] v. 1. p. 441.) *Εἴ τις ἐπίσκοπος διὰ χρημάτων τῆς ἀξίας ταύτης ἐγκρατὴς γένηται, ἢ πρεσβύτερος, ἢ διάκονος, καθαιρείσθω καὶ αὐτὸς, καὶ ὁ χειροτονήσας, καὶ ἐκκοπτέσθω παντάπασι καὶ τῆς κοινωνίας, ὡς Σίμων ὁ Μάγος ὑπ' ἐμοῦ Πέτρου.*—C. Chalced. c. 2. (t. 4. p. 755 b.) *Εἴ τις ἐπίσκοπος ἐπὶ χρήμασι χειροτονίαν ποιήσαιτο, καὶ εἰς πράσιν καταγάγῃ τὴν ἄπρατον χάριν, καὶ χειροτονήσῃ ἐπὶ χρήμασιν ἐπίσκοπον, ἢ χωρεπίσκοπον, ἢ πρεσβύτερον, ἢ διάκονον, ἢ ἕτερόν τινα τῶν ἐν τῷ κλήρῳ καταριθμουμένων, ἢ προβάλλοιτο ἐπὶ χρήμασιν ἢ οἰκονόμον, ἢ ἔκδικον, ἢ προσμονάριον, ἢ ὅλως τινὰ τοῦ κανόνος, δι' αἰσχροκέρδειαν οἰκείαν· ὁ τοῦτο ἐπιχειρήσας, ἐλεγχθεὶς, περὶ τὸν οἰκεῖον κινδυνευέτω βαθμόν· καὶ ὁ χειροτονούμενος μηδὲν ἐκ τῆς κατ' ἐμπορίαν ὠφελείσθω χειροτονίας ἢ προβολῆς, ἀλλ' ἔστω ἀλλότριος τῆς ἀξίας, ἢ τοῦ φροντίσματος, οὗπερ ἐπὶ χρήμασιν ἔτυχεν.*

[71] Ep. 68. [al. 67.] p. 171. (p. 288.).... Plebs obsequens præceptis Dominicis, et Deum metuens, a peccatore præposito separare se debet, nec se ad sacrilegi sacerdotis sacrificia miscere; quando ipsa maxime habeat potestatem vel eligendi dignos sacerdotes, vel indignos recusandi.

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HOBART HALL AT UNIV. OF MICH.

Bisilides, two bishops who fell into idolatry, that it was their duty, in obedience to the divine commands, to separate themselves from such apostatizing bishops, and not join in their sacrilegious sacrifices; forasmuch as it was chiefly in their power either to choose worthy bishops, or refuse the unworthy. And the same obligation lay upon them to separate from the communion of an heretical bishop, as is evident from the whole practice of the Church. Fourthly, if any bishops were legally deposed for any other misdemeanours, it was equally the people's duty to give vigour and effect to the censures of the Church by deserting their communion, and adhering to such as were by just authority substituted in their room. Fifthly, it sometimes happened that the dispute of right between two contending bishops was so nice and doubtful, and hard to be determined, that good and wise men might join with either till the matter of dispute was fully ended by a competent authority, from which there lay no further appeal. This was like the case of a *lite pendente*, where each party might be presumed to have a right till the cause was fully heard and adjusted: and in such a case it would be hard to condemn innocent men who joined with either side till some better light and direction could be afforded them, which might give a final determination of the question in debate, and settle more perfectly the rule of communion. This was the case between Flavian and Evagrius, bishops of Antioch: Flavian was generally received in the Eastern Churches, but Evagrius had the countenance of the bishops of Rome and the Western Churches; and during this contention it was no great crime in men of honest minds to join with either party, since the matter was so hard to be determined by the greatest authority in the Church. Sixthly, sometimes a bishop, who might be presumed to have a right in the Church, was willing to resign to his opposite, to prevent a schism and preserve the peace of the Church: and in that case there could be no harm in submitting to the opposite, because it was done by consent and cession of the true bishop, and was confirmed by the approbation of the Church. Seventhly, sometimes a bishop was willing to resign for the sake of peace, but a superior power would not permit him so to do: thus Flavian in the forementioned dispute with Evagrius, being summoned by the Emperor Theodosius to

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have his cause heard and decided at Rome, generously told the Emperor, 'that if his faith was accused as erroneous, or his life as immoral and unqualifying him for a bishopric, he would freely let his accusers be his judges, and stand to their determination, whatever it were: but if the dispute be only about the throne and government of the Church,' said he, 'I shall not stay for judgment, nor contend with any that has a mind to that, but freely recede, and abdicate the throne of my own accord: and you, great sir, may commit the see of Antioch to whom you please.' The historian[72] says the Emperor was so much affected with this generous answer, that, instead of sending him to Rome for judgment, he sent him back to take care of his Church, and would never after hearken to any solicitations that were made to expel him. Now in this case it were unreasonable to think that the people which followed Flavian, among whom was St. Chrysostom, were in any fault, though the judgment of the Western bishops was against him. Lastly, sometimes two bishops were allowed to sit jointly in the same see, as some suppose Peter and Paul to have been at Rome, the one the bishop of the Jews, and the other of the Gentiles; or when one was to be coadjutor to the other; or when it was to cure an inveterate schism, as it was in the proposal made by the Catholic bishops to the Donatists in the Collation of Carthage; of all which cases the reader may find an exact account given in a former part[73] of this work. Now in such cases obedience might be paid to either bishop without schism, because there was no opposition between them: and, though it was not according to the common rule of the Church to have two bishops ordinarily sitting together in one see at the same time, yet for extraordinary reasons this was sometimes allowed in special cases; then there was no schism or other evil in it, no breach of unity or encroachment upon any

[72] Theodoret. l. 5. c. 23. (v. 3. p. 225. 19.) *Εἰ μὲν τῆς πίστεως, ὦ βασιλεῦ, τῆς ἐμῆς ὡς οὐκ ὀρθῆς κατηγοροῦσί τινες, ἢ τὸν βίον φασὶν ἱερωσύνης ἀνάξιον, καὶ αὐτοῖς χρήσομαι τοῖς κατηγόροις κριταῖς, καὶ τὴν παρ' ἐκείνων ἐκφερομένην ψῆφον δέξομαι. Εἰ δὲ περὶ θρόνου καὶ προεδρίας ζυγομαχοῦσιν, οὔτε δικάσομαι· οὔτε τοῖς λαβεῖν βουλομένοις ἀντιμαχέσομαι· ἀλλ' ἐκστήσομαι καὶ τῆς προεδρίας ἀφέξομαι. Τοιγάρτοι δὸς ᾧ βούλει τὸν Ἀντιοχέων θρόνον, ὦ βασιλεῦ. Ταύτην αὐτοῦ καὶ τὴν ἀνδρείαν καὶ τὴν σοφίαν θαυμάσας ὁ βασιλεὺς τὴν ἐνεγκοῦσαν καταλαβεῖν καὶ τὴν ἐγχειρισθεῖσαν ποιμαίνειν ἐκκλησίαν ἐκέλευσε.*

[73] B. 2. ch. 13. v. 1. p. 150.

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man's right, because it was done for expedience and benefit of the community, by common consent of all parties, and the general approbation of the Church.

I have interposed these cautions, that it might be more particularly understood wherein the due submission to every bishop in his own Church consisted, and under what limitations obedience was required to a single bishop, regularly appointed, to preserve the unity of the Church.

Fourthly, the unity of submission to the discipline of the Church.

7. To preserve the unity of the Church in its well-being, it was required that every member of a Church should submit to the ordinary rules of discipline appointed for the punishment of delinquents; and neither despise the lawful censures of his own Church, nor seek clandestinely to be restored to communion in any other Church, without giving satisfaction to his own Church, whereof he was a member, nor betaking himself to the conventicles of heretics or schismatics, to be received by them as a communicant, when he was cast out of his own Church as a criminal. For all these were direct violations of the unity of discipline, which ought to be preserved entire in every Church. The effect of a legal excommunication and the power of the keys was always reputed such, as that if a man was justly cast out of the communion of his own Church for his offences, he was supposed to be excluded from all title to the kingdom of heaven during his continuance in that state, by virtue of our Saviour's authority delegated to the Church in those words, "Whosesoever sins ye retain, they are retained," [John 20, 23.] and "Whatsoever ye shall bind on earth shall be bound in heaven." [Matth. 18, 19.] And therefore unless men submitted to the ordinary way of restoring offenders, and sought to be reconciled to the peace of the Church by the proper methods of public confession and repentance, and intercession for pardon and absolution, they were treated as despisers of the Church's discipline; and if they died in that state, without being first reconciled, and received into communion again, they were looked upon as persons in a deplorable condition, as dying in a state of sin and rebellion against God, and out of the unity of the Church. For which reason no solemnity was ever used at their funeral, as was usual for those who died in the peace of the Church; nor were their oblations received, or any offerings or commemorations made for them, as for others, in the usual

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service of the Church. Only in one case a little favour was showed to such as died in the bonds of excommunication, unrelaxed by any formal absolution: which was, when such penitents as obediently submitted to the Church's discipline, and gave evident tokens of their sincere repentance, happened to die suddenly when they were desirous of reconciliation and absolution, but by unavoidable necessity could not have it; in this case the canons ordered that their oblations should be received, as a testimony of their submission, and [of their] being united in heart and mind to the Church, though they could not have the formality of an external absolution.

In the fourth Council of Carthage there is a canon [74] to this purpose: 'Such penitents as are intent and diligent in observing the rules of penance, if they chance to die in a journey, or at sea, where they can have no help or remedy, shall notwithstanding have their memory commended both in the prayers and oblations of the Church.' The second Council of Vaison [75] is a little more particular in declaring, how such penitents shall be admitted to all the privileges of Church communion after death: 'If any of those who are under penance, and live in the course of a good life with satisfactory compunction, happen to die suddenly and unexpectedly either in the country or in a journey, their oblations shall be received, and their funeral obsequies and memorials shall be celebrated in the usual manner and [with the] affection of the Church: because it were unjust that their commemorations should be excluded from the salutary mysteries, who, whilst they were labouring earnestly with a faithful affection after those holy mysteries, were intercepted by sudden death from the *viaticum* of the sacraments, to whom the priest perhaps would have thought fit

[74] C. 79. (t. 2. p. 1206 b.) Pœnitentes, qui attente leges pœnitentiæ exequuntur, si casu in itinere vel in mari mortui fuerint, ubi eis subveniri non possit, memoria eorum et orationibus et oblationibus commendetur.

[75] C. 2. (t. 3. p. 1457 b.) Pro his, qui, pœnitentia accepta, in bonæ vitæ cursu satisfactoria compunctione viventes, sine communione inopinato nonnunquam transitu in agris aut itineribus præveniuntur, oblationem recipiendam, et eorum funera, ac deinceps memoriam ecclesiastico affectu prosequendam; quia nefas est eorum commemorationes excludi a salutaribus sacris, qui ad eadem sacra fideli affectu contendentes, dum se diutius reos statuunt, indignos salutiferis mysteriis judicant, ac dum purgatiores restitui desiderant, absque sacramentorum viatico intercipiuntur: quibus fortasse nec absolutissimam reconciliationem sacerdos denegandam putasset.

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to have granted the most absolute reconciliation.' There are a great many canons in the second Council of Arles[76], and the second of Orleans[77], and the second [third] of Toledo[78], and the Council of Epone[79], to the same person. By all which we may judge, that though the Church was severe against impenitent apostates and contemners of her discipline, yet she showed great favour and tenderness toward such as really honoured her discipline, and gave evident tokens of repentance: such men were not deemed to depart out of the unity and communion of the Church, though they happened to die without the formality of an external absolution; being internally reconciled both to God and the Church, by the testimonies of repentance, in such cases of extremity, where not their own will, but the necessity of their circumstances precluded them from a more formal reconciliation.

How different Churches maintained communion with one another. First, In Faith.

8. And thus far we have considered the unity of every Church with relation to its own members: we are next to examine, what communion different Churches held with one another, that we may discover the harmonious unity of the Catholic Church. And here first of all we are to observe, that as there was one common faith, consisting of certain fundamental articles, essential to the very being of a particular Church and its unity, and the being of a Christian; so this same faith was necessary to unite the different parts of the Catholic Church, and make them one body of Christians. So that if any Church deserted or destroyed this faith in whole or in part, they were looked upon as rebels and traitors against Christ, and enemies to the common faith, and treated as a

[76] C. 12. (t. 4. p. 1012 d.) De his, qui in pœnitentia positi vita excesserunt, placuit nullum communione vacuum debere dimitti; sed pro eo, quod honoravit pœnitentiam, oblatio illius suscipiatur.

[77] C. 14. Ed. Crabb. (ibid. [c. 15.] p. 1782 a.) Oblationes [al. oblationem] defunctorum, qui in aliquo crimine fuerint interempti, recipi debere censemus, si tamen non ipsi sibi mortem probentur propriis manibus intulisse.

[78] C. 12. (t. 5. p. 1012 a.) Quicunque ab episcopo vel presbytero, sanus vel infirmus, pœnitentiam postulat, id ante omnia episcopus servet et presbyter, ut si vir est, sive sanus, sive infirmus, prius eum tondeat, aut in cinere et cilicio habitum mutare faciat, et sic pœnitentiam ei tradat. Si vero mulier fuerit, &c.

[79] C. 36. (t. 4. p. 1580 e.) Ne ullus sine remedio aut spe veniæ ab ecclesia repellatur, neve ulli, si aut pœnituerit, aut se correxerit, ad veniam redeundi aditus obstruatur. Sed si cui forsitan discrimen mortis immineat, damnationis constituta tempora relaxentur. Quod si ægrotum accepto viatico revalescere fortasse contingit, statuti temporis spatia observare conveniet.

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conventicle of heretics, and not of Christians. Upon this account every bishop not only made a declaration of his faith at his ordination, before the provincial synod that ordained him, but also sent his circular or encyclical letters, as they were called, to foreign Churches, to signify that he was in communion with them. And this was so necessary a thing in a bishop newly ordained, that Liberatus [80] tells us, the omission of it was interpreted a sort of refusal to hold communion with the rest of the world, and a virtual charge of heresy upon himself or them.

Secondly, In mutual assistance of each other for defence of the common faith.

9. To maintain this unity of faith entire, every Church was ready to give each other their mutual assistance, to oppose all fundamental errors, and beat down heresy at its first appearance among them. The whole world in this respect was but one common diocese, the episcopate was an universal thing, and every bishop had his share in it in such a manner, as to have an equal concern in the whole; as I have more fully shown in another place [81], where I observed, that in things not appertaining to the faith, bishops were not to meddle with other men's dioceses, but only to mind the business of their own: but when the faith or welfare of the Church lay at stake, and religion was manifestly invaded; then, by this rule of there being but one episcopacy, every other bishopric was as much their diocese as their own; and no human laws or canons could tie up their hands from performing such acts of the episcopal office in any part of the world, as they thought necessary for the preservation of faith and religion. This was the ground of their meeting in synods, provincial, national, and general, and sending their joint opinions and advice from one Church to another. The greatest part of Church-history is made up of such acts as these, so that it were next to impertinent to refer to any particulars.

[80] Breviar. c. 17. (CC. t. 5. p. 765 e. et p. 766 a, c, d.) Ordinatur a communicatoribus ejus episcopis et clericis et monachis, qui ejus noverant fidem et gubernationem, Joannes ex œconomo, cognomento Talaia.... Joannes Talaia de ordinatione sua neglexit per suas synodicas literas Acacio, episcopo Constantinopolitano, destinare.... Posthæc Acacius audiens de ordinatione Joannis, et contristatus, quia synodicas epistolas non direxisset, et una faciens cum Gennadio episcopo, parente beati Timothei, volentes ei nocere, &c... Nec tamen prius hoc faceret, nisi susciperet henoticon principis, et synodicas destinaret epistolas Constantinopolitano Acacio, et Simplicio Romano, et cæteris archiepiscopis, &c.

[81] B. 2. ch. 5. s. 2. v. 1. p. 96.

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I only observe one thing further upon this head, that the intermeddling with other men's concerns, which would have been accounted a real breach of unity in many other cases, was in this case thought so necessary, that there was no certain way to preserve the unity of the Catholic Church and faith without it. And as an instance of this, I have noted in the fore-cited Book, that though it was against the ordinary rule of the Church for any bishop to ordain in another man's diocese; yet in case a bishop turned heretic, and persecuted the orthodox, and would ordain none but heretical men to establish heresy in his diocese; in that case any orthodox bishop was not only authorized, but obliged, as opportunity served, and the needs of the Church required, to ordain Catholic teachers in such a diocese, to oppose the malignant designs of the enemy, and stop the growth of heresy, which might otherwise take deep root, and spread and over-run the Church. Thus Athanasius and the famous Eusebius of Samosata went about the world in the prevalency of the Arian heresy, ordaining in every Church, where they came, such clergy as were necessary to support the orthodox cause in such a time of distress and desolation: and this was so far from being reckoned a breach of the Church's unity, though against the letter of a canon in ordinary cases, that it was necessary to be done in such a state of affairs, to maintain the unity of the Catholic faith, which every bishop was obliged to defend, not only in his own diocese, but in all parts of the world, by virtue of that rule, which obliges bishops in weighty affairs to take care of the Catholic Church, and requires all Churches in time of danger to give mutual aid and assistance to one another.

Thirdly, In joining in communion with each other in all holy offices, as occasion required.

10. This unity of the Catholic Church was further maintained by the readiness of each Church, and every member of it, to join in communion with all other Churches in the performance of divine worship, and all holy offices, as their occasions required. To this purpose two things were necessary; first, that every Church should keep her liturgy free from all superstitious and idolatrous worship, and not render her assemblies for holy duties inaccessible by intrenching upon any divine rule, or making any unlawful conditions of communion. And how careful the ancient Church was in this point, may be seen by any one that will peruse the account I have lately

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given[81] of the liturgy of the ancient Churches in all the several parts of it; where none of those superstitious and idolatrous practices appear, that have so much divided the Church in later ages, since the exorbitant power of the Romish Church imposed so much upon the credulity of men in points of faith, and loaded their consciences so heavily in matters of unwarrantable practice. Secondly, it was necessary that every Christian, when he came to a foreign Church, should readily comply with the innocent usages and customs of that Church, where he happened to be, though they might chance in some circumstances to differ from his own. This was a necessary rule of peace, to preserve the unity of communion and worship throughout the whole Catholic Church. For it was impossible that every Church should have the same rites and ceremonies, the same customs and usages in all respects, or even the same method and manner of worship exactly agreeing in all punctilios with one another, unless there had been a general liturgy for the whole Church expressly enjoined by divine appointment. The unity of the Catholic Church did not require this, as we shall see more plainly by and by, and therefore no one ever insisted upon this as any necessary part of its unity: it was enough that all Churches agreed in the substance of divine worship; and for circumstantials, such as rites and ceremonies, method and order, and the like, every Church had liberty to judge and choose for herself by the rules of expediency and convenience: and then, as it was the duty of every member of any particular Church to comply with the innocent customs of his own Church, in order to hold free communion with her; so it was the duty of every Christian to comply with the different customs of all other Churches wherever he happened to travel, in order to hold communion with the Catholic Church in all places without exception.

This rule is often inculcated by St. Austin as the great rule of peace and unity with regard to all Churches: and he tells us he received it as an oracle from the wise and moderate discourses of St. Ambrose, whom he consulted upon the occasion of a scruple which had possessed the heart of his mother Mo-

[81] [See Books 14 and 15, forming the sixth volume of the original edition, and first published in 1719. The seventh volume, containing this Book, came out in the following year, 1720. Ed.]

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nicha, and for some time greatly perplexed her. She having lived a long time at Rome, was used to fast on Saturday, or the Sabbath, according to the custom of the Church of Rome: but when she came to Milan, she found the contrary custom prevailing, which was to keep Saturday a festival: and being much disturbed about this, her son, though he had not much concern about such matters at that time, for her ease and satisfaction consulted St. Ambrose upon the point, to take his advice and direction how to govern herself in this case, so as to be inoffensive in her practice. To whom St. Ambrose answered, that he could give no better advice in the case than to do as he himself was wont to do: 'For,' said he[82], 'when I am here, I do not fast on the Sabbath; when I am at Rome, I fast on the Sabbath: and so you, whatever Church you come to, observe the custom of that Church, if you would neither take offence at them, nor give offence to them.' St. Austin[83] says this answer satisfied his mother, and he always looked upon it as an oracle sent from heaven. He adds moreover, 'that he had often experienced with grief and sorrow the disturbance of weak minds, occasioned either by the contentious obstinacy of certain brethren, or by their own superstitious fears, who in matters of this nature, which can neither be certainly determined by the authority of holy Scripture, nor by the tradition of the universal Church, nor by any advantage in the correction of life, raise such litigious questions, as to think nothing right but what themselves do; only because they were used to do so in their own country, or because a little shallow reason tells them it ought to be so, or because they have perhaps seen some such thing in their travels, which they reckon the more learned the more remote it is from their own country.'

[82] Ep. 86. [al. 36.] ad Casulan. See before, s. 5, the last clauses of n. 55. p. 25, Quando hic sum, &c.

[83] Ep. 118. [al. 54. c. 2.] ad Januar. (t. 2. p. 124 f.) Hoc cum matri renuntiassem, libenter amplexa est. Ego vero de hac sententia etiam atque etiam cogitans, ita semper habui, tanquam eam cœlesti oraculo susceperim. Sensi enim sæpe dolens et gemens multas infirmorum perturbationes fieri, per quorundam fratrum contentiosam obstinationem, vel superstitiosam timiditatem, qui in rebus hujusmodi, quæ neque Scripturæ sanctæ auctoritate, neque universalis ecclesiæ traditione, neque vitæ corrigendæ utilitate ad certum possunt terminum pervenire, tantum quia subest qualiscunque ratiocinatio cogitantis, aut quia in sua patria sic ipse consuevit, aut quia ibi vidit, ubi peregrinationem suam, quo remotiorem a suis, eo doctiorem factam putat, tam litigiosas excitant quæstiones, ut nisi quod ipsi faciunt, nihil rectum existiment.

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Thus he handsomely and elegantly reflects upon the superstitious folly and contentious obstinacy of such as disturbed the Church's peace for such things as every Church had liberty to use, and every good Christian was obliged to comply with. For, as he says in the same place[84], 'all such customs as varied in the practice of different Churches, as that some fasted on the Saturday, and others did not; some received the eucharist every day, others on the Sabbath and Lord's-day, and others on the Lord's-day only; and whatever else there was of this kind, they were all things of free observation: and in such things there could be no better rule for a grave and prudent Christian to walk by, than to do as the Church did, wherever he happened to come. For whatever was enjoined that was neither against faith nor good manners, was to be held indifferent, and to be observed according to the custom and for the convenience of the society among whom we live.' This he repeats over and over again[85], as the most safe rule of practice in all such things wherein the custom of Churches varied, 'that wherever we see any things appointed or know them to be appointed, that are neither against faith nor good manners, and have any tendency to edification and to stir men up to a good life, we should not only abstain from finding fault with them, but follow them both by our commendation and imitation.' By this rule all wise and peaceable men always governed their practice in holding communion with other Churches: though they did not altogether like their customs, they did not break communion with them upon that account.

[84] Ibid. (p. 124 c.) Alia vero, quæ per loca terrarum regionesque variantur, sicuti est quod alii jejunant Sabbato, alii non: alii quotidie communicant corpori et sanguini Domini, alii certis diebus accipiunt: alibi nullus dies prætermittitur, quo non offeratur, alibi Sabbato tantum et Dominico, alibi tantum Dominico: et si quid aliud hujusmodi animadverti potest, totum hoc genus rerum liberas habet observationes: nec disciplina ulla est in his melior, gravi prudentique Christiano, quam ut eo modo agat, quo agere viderit ecclesiam ad quamcunque forte devenerit. Quod enim neque contra fidem neque contra bonos mores injungitur [al. esse convincitur], indifferenter est habendum, et pro eorum inter quos vivitur societate servandum est.

[85] Ibid. c. 18. (p. 141 g.) .... De iis, quæ varie per diversa loca observantur, una in his saluberrima regula retinenda est, ut quæ non sunt contra fidem, neque contra bonos mores, et habent aliquid ad exhortationem vitæ melioris, ubicunque institui videmus, vel instituta cognoscimus, non solum non improbemus, sed etiam laudando et imitando sectemur, si aliquorum infirmitas non ita impedit, ut majus detrimentum sit.

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Thus Irenæus[86] observes to Pope Victor, when he was rashly going to excommunicate the Asiatic Churches for their different way of observing Easter, that his predecessor Anicetus was far from this uncharitable temper. For when Polycarp came to Rome, though they could not come to a perfect agreement in this point, to have all the Churches observe Easter on the same day; yet this difference made no contention between them. For they gave each other the kiss of peace, and communicated together; Anicetus paying Polycarp the customary civility and respect, to let him consecrate the eucharist in his Church. Irenæus observes further, that though there were many disputes then on foot concerning the time, and length, and manner of observing the ante-Paschal or Lent-fast, yet all Churches agreed to live in peace and union with one another: and the difference of their fasts served only to commend the unity of their faith. And because it was then a customary thing for Churches of different countries to send the eucharist mutually to each other, to testify that they were in communion with one another; he notes it likewise as a peculiar instance of the Catholic tempers of the bishops of Rome, Anicetus, Pius, Hyginus, Telesphorus, Xystus, and Soter, who were Victor's predecessors in that Church, that though they differed from the Asiatic Churches about Easter, yet they lived in peace with them; not only receiving the members of those Churches into communion when they came to Rome, but also sending the eucharist from Rome to those Churches. Which being so common a way of testifying their communion with distant Churches in those days, it was a very just complaint which Chrysostom[87] made against Theophilus, bishop of Alexandria, and his accomplices, 'that when they came to Constantinople,

[86] Ap. Euseb. l. 5. c. 24. (v. 1. p. 245. 3.) *Ἐπὶ τούτοις ὁ μὲν τῆς Ῥωμαίων προεστὼς Βίκτωρ, κ. τ. λ.*

[87] Ep. ad Innocent. t. 4. p. 677. (t. 3. p. 516 a.) *Ὁ γὰρ τῆς ἐκκλησίας τῆς ἐν Ἀλεξανδρείᾳ τὴν προεδρίαν ἐγχειρισθεὶς Θεόφιλος, .. συναγαγὼν μεθ' ἑαυτοῦ πλῆθος Αἰγυπτίων ἐπισκόπων οὐκ ὀλίγων, παραγίνεται· ... εἶτα τῆς μεγάλης καὶ θεοφιλοῦς Κωνσταντινουπόλεως ἐπιβὰς, οὐκ εἰς ἐκκλησίαν εἰσῆλθε κατὰ τὸ εἰωθὸς, καὶ τὸν ἄνωθεν κρατήσαντα θεσμὸν, οὐκ ἡμῖν συνεγένετο, οὐ λόγου μετέδωκεν, οὐκ εὐχῆς, οὐ κοινωνίας· ἀλλ' ἀποβὰς τοῦ πλοίου, καὶ τὰ πρόθυρα τῆς ἐκκλησίας παραδραμὼν, ἔξω που τῆς πόλεως ἀπελθὼν ηὐλίζετο, καὶ πολλὰ παρακαλεσάντων ἡμῶν καὶ αὐτὸν καὶ τοὺς πρὸ* [Bened. *μετ'*] *αὐτοῦ παραγενομένους παρ' ἡμῖν καταχθῆναι· καὶ γὰρ ἅπαντα ηὐτρέπιστο, καὶ καταγώγια, καὶ ὅσα εἰκὸς ἦν· οὔτε ἐκεῖνοι, οὔτε αὐτὸς ἠνέσχετο.*

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they came not to church, according to custom and ancient law; they joined not themselves to him, nor communicated with him in the word or prayer, or the communion of the eucharist; but as soon as they landed, passing by the church, they took their lodging in an inn, when the bishop's house was ready prepared to entertain them.' This he complains of as a singular instance of their enmity, faction, and uncharitable spirit, in refusing to communicate with him before any formal accusation had been brought against him, much less any legal sentence of condemnation pronounced upon him.

By this account of things it is easy to judge what stress the Ancients laid upon the law of communion, obliging every Church to communicate with her sister Churches over all the world in all holy offices, in order to preserve the communion of worship one entire thing throughout the whole Catholic Church, without any notorious division or distraction.

Fourthly, In mutual consent to ratify all legal acts of discipline, regularly exercised in any Church whatsoever.

11. The communion of the whole Catholic Church was further declared by the obligation of such laws as laid a necessary injunction upon all Churches to ratify all such legal acts of discipline, as were regularly exercised in any Church whatsoever. Thus if any person was duly baptized, and thereby admitted to be a member of any particular Church, that qualification gave him a right to communicate in any part of the Catholic Church, travelling with commendatory letters from the bishop of his own Church, to signify that he was in perfect and full communion with her, and not cast out for any offence against the rules of her communion. This is what Optatus means, when[88] he says, 'that the whole world was united together in one common society, or society of communion, by the mutual commerce of those canonical or communicatory letters,' which they called *formatæ*, because these testifying that he was in the communion of his own Church, by the known laws and rules of discipline, gave him a title to communicate in any Church whatsoever, only observing the rites and customs of that Church whither his occasions happened to call him. So again, if a man was legally excommunicated for his crimes by his own Church, no Church would receive him to communion till he had given proper satisfaction to his own

[88] L. 2. p. 48. (p. 36.) .... Totus orbis commercio formatarum in una communionis societate concordat.

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Church, which had bound him by her censures. Such a perfect good understanding and harmony was there then among all the parts of the whole Catholic Church, in confirming each other's discipline, and mutually strengthening their authority against all enemies of faith and virtue; whether they were such as tried by open violence and terror, or by secret arts and clandestine practices to get admission, in opposition to the Church, whose censures they lay under. No Church would admit them without communicatory letters: if they were rebels to their own Church, they were accounted rebels to the whole. Thus Epiphanius [89] tells us, when Marcion the heretic was excommunicated by his own father, and desired to be received into communion at Rome, they answered him, 'that they could not do it without the permission of his father: for there was but one faith, and one rule of concord; and they could not do any thing in opposition to their good fellow-servant, and his father.' This repulse was highly resented by Marcion, and it put him upon those wicked designs of inventing a new heresy to disturb the Church: for he told them directly in revenge, 'that he would divide their Church, and bring an eternal schism into it.' Which, as Epiphanius rightly observes, 'was not so much to divide the Church, as to divide himself from it.'

There are a great many other instances of the Church's steadiness and resolution in thus proceeding against delinquents, to maintain the unity of discipline entire in all parts of the ecclesiastical body, and abundance of canons to this purpose; which, because I shall have occasion to speak more of hereafter [90], I willingly omit them in this place, and go on to observe another instance of the Church's unity in point of practice: which was,

12. That all Churches generally agreed in receiving such customs as were handed down by general consent from aposto- **Fifthly, In receiving unanimous-**

[89] Hær. 42. Marcion. n. 1. (t. 1. p. 303 c.) Τί μὴ ἠθελήσατέ με ὑποδέξασθαι; τῶν δὲ λεγόντων, Ὅτι οὐ δυνάμεθα ἄνευ τῆς ἐπιτροπῆς τοῦ τιμίου πατρός σου τοῦτο ποιῆσαι· μία γάρ ἐστιν ἡ πίστις, καὶ μία ἡ ὁμόνοια, καὶ οὐ δυνάμεθα ἐναντιωθῆναι τῷ καλῷ συλλειτουργῷ, πατρὶ δὲ σῷ. Ζηλώσας λοιπὸν, καὶ εἰς μέγαν ἀρθεὶς θυμὸν καὶ ὑπερηφανίαν, τὸ σχίσμα ἐργάζεται ὁ τοιοῦτος, ἑαυτῷ τὴν αἵρεσιν προστησάμενος, καὶ εἰπὼν, Ὅτι ἐγὼ σχίσω τὴν ἐκκλησίαν ὑμῶν, καὶ βαλῶ σχίσμα ἐν αὐτῇ εἰς τὸν αἰῶνα· ὡς τάληθῆ μὲν σχίσμα ἔβαλεν οὐ μικρὸν, οὐ τὴν ἐκκλησίαν σχίσας, ἀλλ' ἑαυτὸν καὶ τοὺς αὐτῷ πεισθέντας.

[90] Ch. 2, s. 10, of this Book.

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ly the customs of the universal Church, and submitting to the decrees of General Councils.

lical tradition, or otherwise settled and determined by the decrees of general Councils. For these two ways many customs became in a manner universal, and almost of necessary observance in the Church over all the world: and then for any private man or Church to dispute against them, was to give scandal to the rest of the world, and bring disturbance into the Church by an unnecessary and unreasonable opposition to things innocent in themselves, and settled by general consent and approbation. St. Austin takes notice of this double source and original of general customs in the Church, for which though there be no express command in Scripture, yet a great deference ought to be paid to the general sentiments and authority, and practice and observation of the whole Church. 'Those things,' says he[91], 'which we keep, not from Scripture, but from tradition, and which are observed all over the world, are reasonably supposed to have come down to us recommended and appointed either by the Apostles themselves, or by some plenary Councils, whose authority is of great use in the Church; such as the celebrating the anniversary memorial of our Saviour's passion, and resurrection, and ascension, and the descent of the Holy Ghost from heaven, and whatever else of the like nature is observed by the universal Church in all parts, wherever it spreads itself all the world over.' Concerning which sort of things, he concludes[92], 'that for any man to dispute against them was most insolent madness, seeing they were authorized by the practice of the universal Church.' He particularly applies this rule to the case of observing the Lord's-day[93], not as a fast, but as a festival: for since the whole Church observed it as a festival, no one could turn that day into a fast, without offending God, by giving scandal to the Church universal: there being both

[91] Ep. 118. [al. 54.] ad Januar. (t. 2. p. 124 b.) Illa autem, quæ non scripta, sed tradita custodimus, quæ quidem toto terrarum orbe servantur, datur intelligi vel ab ipsis Apostolis, vel plenariis Conciliis, quorum in ecclesia saluberrima auctoritas, commendata atque statuta retineri: sicuti quod Domini passio et resurrectio et ascensio in cœlum, et adventus de cœlo Spiritus Sancti, anniversaria solemnitate celebrantur, et si quid aliud tale occurrerit, quod servatur ab universa, quacunque se diffundit, ecclesia.

[92] Ibid. (p. 126 c.) Si quid horum tota per orbem frequentat ecclesia, ... quin ita faciendum sit, disputare, insolentissimæ insaniæ est.

[93] Ep. 86. [al. 36.] c. 7. ad Casulan. See before, the second part of n. 53, preceding.

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general custom and canon[94] against it. For the same reason it was esteemed a crime to pray kneeling on that day, because the practice of the universal Church was to pray standing[95], in memory of our Saviour's resurrection; and the Council of Nice thought it a thing worthy of a decree to bring all men to an uniformity in that practice. As she did also in the matter of observing the Easter festival, making a rule that all Churches should celebrate it on one and the same day, 'because it was unlawful that in a business of so great moment, and the religious observation of such a festival, there should be any dissension,' as Constantine expresses it in his Epistle[96], which he sent to all the Churches in the world upon this occasion. So that though several Churches had kept this festival on different days before this decree was made, yet when it was once passed, there was no more liberty for dissension.

Sixthly, In submitting to the decrees of national Councils.

13. The like may be observed of the decrees of national Councils, when once the Roman empire was divided into several kingdoms. A great many things were at first allowed to every bishop in the management of his own diocese, which were afterwards restrained by the decrees of national Councils. As to instance only one particular; every bishop anciently had liberty to frame his own liturgy for the use of his own Church: but in process of time, when the world was divided into several kingdoms, rules were made that all the Churches of such or such a kingdom should have one and the same liturgy. Thus when Spain and Gallia Narbonensis became one

[94] C. Apost. 64. [al. 66. et juxt. Labb. 65. (Cotel. [c. 56.] v. 1. p. 446.) *Εἴ τις κληρικὸς εὑρεθῇ τὴν Κυριακὴν ἡμέραν ἢ τὸ Σάββατον, πλὴν τοῦ ἑνὸς μόνου, νηστεύων, καθαιρείσθω· ἐὰν δὲ λαϊκὸς ᾖ, ἀφοριζέσθω.*—C. Gangrens. c. 18. (t. 2. p. 424 b.) *Εἴ τις διὰ νομιζομένην ἄσκησιν ἐν τῇ Κυριακῇ νηστεύοι, ἀνάθεμα ἔστω.*—C. Carth. 4. c. 64. (ibid. p. 1205 b.) Qui Dominico die studiose jejunat, non credatur Catholicus.—C. Bracar. 1. [al. 2.] c. 4. (t. 5. p. 837 e.) Si quis natalem Christi secundum carnem non bene honorat, sed honorare se simulat, jejunans in eodem die et in Dominico ..... anathema sit.

[95] Vid. Tertul. de Cor. Mil. c. 3. (p. 102 a.) Die Dominico jejunium nefas ducimus, vel de geniculis adorare.—C. Nicæn. c. 20. (t. 2. p. 245 c.) *Ἐπειδὴ εἰσί τινες ἐν τῇ Κυριακῇ γόνυ κλίνοντες, καὶ ἐν ταῖς τῆς Πεντηκοστῆς ἡμέραις, ὑπὲρ τοῦ πάντα ὁμοιῶς ἐν πάσῃ παροικίᾳ ὁμοφρόνως φυλάττεσθαι, ἔστῶτας ἔδοξε τῇ ἁγίᾳ συνόδῳ τὰς εὐχὰς ἀποδιδόναι τῷ Κυρίῳ* [al. *Θεῷ*].

[96] Ap. Euseb. de Vit. Constant. l. 3. c. 18. (v. 1. p. 588. 8.) *Πρὸς τούτοις κἀκεῖνο πάρεστι συνορᾷν, ὡς ἐν τηλικούτῳ πράγματι καὶ τοιαύτῃ θρησκείας ἑορτῇ διαφωνίαν ἄρχειν ἐστὶν ἀθέμιτον.*

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distinct kingdom, a decree was made, that as there was but one faith, so there should be but one liturgy, or order of divine service, throughout the whole kingdom. The fourth Council of Toledo, under the reign of king Sisenandus, made an express canon[97] to this purpose: 'After the confession of the true faith, which is preached in the holy Church of God, it seemed good that all we bishops, who are joined together in the unity of the Catholic faith, should henceforth use no diversity or disagreement in the administration of the ecclesiastical mysteries; lest every such diversity be interpreted a schism among us by carnal men, and such as are unknown to us, and the variety of customs in our Churches become a scandal to many. Let one order therefore of prayers and psalmody be observed by us throughout all Spain and Gaul; one manner of celebrating mass, or the communion-service; and one manner of performing vespers, or evening-service: and let there henceforth be no diversity in our ecclesiastical customs, seeing we all live in one faith and in one kingdom.' That canon also refers to more ancient canons, requiring uniformity in divine worship throughout provincial Churches. And it is most certain, that about this time, that is, in the sixth and seventh centuries, and before, decrees were made in several Councils, requiring the Churches of each respective province to conform their usages to the rites and forms of the metropolitical or principal Church among them. As may be seen in the canons of the Councils of Agde[98], anno 506; and Epone[99], and Girone[1], anno 517; and

[97] C. 2. (t. 5. p. 1704 a.) Post rectæ fidei confessionem, quæ in sancta Dei ecclesia prædicatur, placuit, ut omnes sacerdotes, qui Catholicæ fidei unitate complectimur, nihil ultra diversum aut dissonum in ecclesiasticis sacramentis agamus; ne quælibet nostra diversitas apud ignotos seu carnales schismatis errorem videatur ostendere, et multis exstet [al. exsistat] in scandalum varietas ecclesiarum. Unus ergo ordo orandi atque psallendi a nobis per omnem Hispaniam atque Galliciam [leg. Galliam] conservetur: unus modus in missarum solemnitatibus, unus in vespertiniis [matutinisque] officiis; nec diversa sit ultra in nobis ecclesiastica consuetudo, quia [al. qui] in una fide continemur et regno. Hoc enim et antiqui canones decreverunt, &c.

[98] C. 30. (t. 4. p. 1388 b.) Et quia convenit, ordinem ecclesiæ ab omnibus æqualiter custodiri, studendum est, ut, sicut ubique fit, et post antiphonas collectiones per ordinem ab episcopis vel presbyteris dicantur, et hymni matutini vel vespertini diebus omnibus decantentur, et in conclusione matutinarum vel vespertinarum missarum, post hymnos capitella de Psalmis dicantur, et plebs, collecta oratione ad vesperam ab episcopo, cum benedictione dimittatur.

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the Council of Vannes[2], and the first of Braga[3], anno 465 and 563. For though by the most ancient rules every bishop had liberty to prescribe what he thought proper for his own Church, and no Church pretended to dictate magisterially in such things to any other; yet when Churches became subject to one political head, and national Churches arose from that distinction; then it was thought convenient by all the bishops of such a nation to unite more closely in rituals and circumstantials of divine worship, as well as faith and substantials: and from that time this also became a necessary part of the union of national Churches; in which all the bishops voluntarily combining, no one could depart from that unity, without incurring the guilt of an unnecessary breach of that union, which was so convenient for cementing the several members of a national Church into one communion.

No necessity of a visible head to unite all the parts of the Catholic Church into one communion.

14. Thus we have seen wherein the unity of the Catholic Church, considered in its utmost latitude, consisted. And hence one might safely infer these two things negatively without any further evidence: First, That there was no necessity of a visible head, as now is pretended in the Church of Rome, to unite all the parts of the Catholic Church into one communion. Nor, secondly, any necessity that the whole Catholic Church should agree in all rites and ceremonies, and customs in indifferent things, which might be various

[99] C. 27. (ibid. p. 1579 c.) Ad celebranda divina officia ordinem, quem metropolitani tenent, provinciales eorum observare debebunt.

[1] C. 1. (ibid. p. 1568 a.) De institutione missarum, ut, quomodo in metropolitana ecclesia fuerit, ita Dei nomine in omni Tarraconensi provincia, tam ipsius missæ ordo, quam psallendi vel ministrandi consuetudo servetur.

[2] C. 15. (ibid. p. 1057 a.) Rectum quoque duximus, ut vel intra provinciam nostram sacrorum ordo et psallendi una sit consuetudo: et, sicut unam cum Trinitatis confessione fidem tenemus, unam et officiorum regulam teneamus: ne variata observatione in aliquo devotio nostra discrepare credatur.

[3] CC. 19, 20, 21, 22, 23. [al. C. Bracar. 2. cc. 1, 2, 3, 4, 5.] (t. 5. p. 840 b, c, d.) Placuit omnibus communi consensu, ut unus atque idem psallendi ordo in matutinis vel vespertinis officiis teneatur.—Item placuit, ut, per solemnium dierum vigilias vel missas, omnes easdem et non diversas lectiones in ecclesia legant.—Item placuit, ut non aliter episcopi et aliter presbyteri populum, sed uno modo salutent, dicentes, *Dominus sit vobiscum*, &c.—Item placuit, ut eodem ordine missæ celebrentur ab omnibus, quem Profuturus quondam hujus metropolitanæ ecclesiæ episcopus ab ipsa apostolicæ sedis auctoritate suscepit scriptum.—Item placuit, ut nullus eum baptizandi ordinem prætermittat, quem et antea tenuit metropolitana Bracarensis ecclesia.

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in different Churches without any breach of Catholic communion.

The former of these was sufficiently provided for by the agreement of all Churches in the same faith, and the obligation that lay upon the whole college of bishops, as equal sharers in one episcopacy, to give mutual assistance to each other in all things that were necessary to defend the faith, or preserve the unity of the Church entire in all respects, when any assault was made upon it. It was by this means, and not by any necessary recourse to any single, visible, standing head, that anciently the unity of the Church was preserved. Recourse was sometimes had to the bishop of Rome, as an eminent bishop, who made a considerable figure in the great body of bishops, and one who by his station in the imperial city might be able to succour those that were oppressed, in times of great difficulty and distress: but his judgment or opinion was deemed no infallible rule, nor his decision such as was to conclude the rest of the world, so as to tie them down in no case without the charge of schism to vary from him. For sometimes the bishop of Rome fell into manifest heresy, as when Liberius subscribed to the Arian blasphemy: in which case any other bishop was not only at liberty to dissent from him, but was obliged, by virtue of his share in the common episcopacy of the Church, to oppose him, and, if occasion required, to pronounce *anathema* against him; as St. Hilary[4] did against Liberius, when he subscribed to the condemnation of Athanasius, and to the Arian Creed made at Sirmium. Sometimes again the bishops of Rome took upon them to exercise a jurisdiction over other Churches, in whose affairs by right of canon they had no power: as when Pope Victor set himself to excommunicate the Asiatic Churches for their different way of observing Easter, he was opposed not only by the Asiatic bishops, but by Irenæus and the rest of the world, as going beyond his bounds, and engaging himself in a rash and schismatical undertaking. For he, who by an undue stretch of power not belonging to him divides others from his communion, is properly the schismatic, by making an unnecessary division in the Church, and

[4] Fragment. p. 134. (juxt. Ed. Veron. 1730, Fragment. 6. c. 6. t. 2. p. 679 a.) Anathema tibi a me dictum, Liberi, et sociis tuis.... Iterum tibi anathema, et tertio, prævaricator Liberi.

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not they who by necessity are forced to divide from him. So again, when Popes Zosimus and Celestine took upon them to receive appellants from the African Churches, and absolve those whom they had condemned; St. Austin and all the African Churches sharply remonstrated against this as an illegal practice, violating the laws of unity, and the settled rules of ecclesiastical commerce, which required, that no delinquent excommunicated in one Church should be absolved in another, without giving satisfaction to his own Church that censured him: and therefore to put a stop to this practice, and check the exorbitant power which the Roman bishops assumed to themselves, they first made a law in the Council of Milevis[5], that no African clerk should appeal to any Church beyond sea, under pain of being excluded from communion in all the African Churches: and then afterward meeting in a general synod[6], they dispatched letters to the bishop of Rome, to remind him how contrary this practice was to the canons of Nice, which ordered that all controversies should be ended in the places where they arose, before a council and the metropolitan. And they withal tell him, 'it was unreasonable to think that God should enable a single person to examine the justice of a cause, and deny his grace to a multitude of men assembled in council.'

This evidently shows that they did not imagine any single person to be the centre of unity to the whole Church; or that all Churches were obliged to be in communion with the bishop of Rome, whether he were catholic or heretic; or that any Church, without the limits of his metropolitical power, was bound in any respect to submit to his jurisdiction: but it manifestly proves on the contrary, that there was no necessity of a visible head as is now pretended in the Church of Rome, to unite all the parts of the Catholic Church into one com-

[5] C. 22. (t. 2. p. 1542 e.) Placuit, ut presbyteri, diaconi, vel cæteri inferiores clerici, in causis, quas habuerint, si de judiciis episcoporum suorum questi fuerint, vicini episcopi eos audiant: et inter eos quidquid est, finiant adhibiti ab eis ex consensu episcoporum suorum. Quod si et ab eis provocandum putaverint, non provocent, nisi ad Africana Concilia, vel ad primates provinciarum suarum. Ad transmarina autem qui putaverit appellandum, a nullo intra Africam in communionem suscipiatur.

[6] Cod. Afric. a c. 135. ad c. 138. (ibid. pp. 1143 b, seqq.)

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munion: but that in matters of faith every bishop was as much a guardian of the whole Church as the bishop of Rome; and in matters of discipline, all Churches were at liberty to hear and determine their own causes in a synod of bishops, without having recourse to any foreign jurisdiction, as has been more fully demonstrated in other parts of this work[7], to which I refer the reader for greater satisfaction.

Nor any necessity that the whole Church should agree in the same rites and ceremonies which were things of an indifferent nature.

15. It is equally clear that there was no necessity, in order to maintain the unity of the Catholic Church, that all Churches should agree in all the same rites and ceremonies; but every Church might enjoy her own usages and customs, having liberty to prescribe for herself in all things of an indifferent nature, except where either an universal tradition or the decree of some general or national Council, as has been noted before, intervened to make it otherwise. To this purpose is that famous saying of Irenæus[8], upon occasion of the different customs of several Churches in observing the Lent-fast: 'We still retain peace one with another, and the different ways of keeping the fast only the more commends our agreement in the faith.' St. Jerom likewise[9], speaking of the different customs of Churches in relation to the Saturday-fast and the reception of the eucharist every day, lays down this general rule, that all ecclesiastical traditions, which did no ways prejudice the faith, were to be observed in such manner as we had received them from our forefathers; and the custom of one Church was not to be subverted by the contrary custom of another; but every province might abound in their own sense, and esteem the rules of their ancestors as laws of the Apostles. After the same manner St. Austin[10] says, 'that in all such

[7] B. 2. ch. 5. v. 1. p. 94. and b. 9. ch. 1. s. 11. v. 3. p. 238.

[8] Ap. Euseb. l. 5. c. 24. (v. 1. p. 248. 4.) Πάντες ... εἰρηνεύομεν πρὸς ἀλλήλους, καὶ ἡ διαφωνία τῆς νηστείας τὴν ὁμόνοιαν τῆς πίστεως συνίστησι.

[9] Ep. 28. [al. 71.] ad Lucin. Bœtic. (t. 1. p. 432 d.) Ego illud breviter te admonendum puto, traditiones ecclesiasticas, præsertim quæ fidei non officiant, ita observandas, ut a majoribus traditæ sunt: nec aliorum consuetudinem aliorum contrario more subverti ... Sed unaquæque provincia abundet in suo sensu, et præcepta majorum leges apostolicas arbitretur.

[10] Ep. 86. [al. 36. c. 1.] ad Casulan. (t. 2. p. 58 e.) In his enim rebus, de quibus nihil certi statuit Scriptura divina, mos populi Dei vel instituta majorum pro lege tenenda sunt. De quibus si disputare voluerimus, et ex aliorum consuetudine alios improbare, orietur interminata luctatio, quæ labore sermocinationis cum certa documenta nulla veritatis insinuet; utique cavendum est, ne tempestate contentionis serenitatem caritatis obnubilet.

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things, whereabout the Holy Scripture has given no positive determination, the custom of the people of God, or the rules of our forefathers, are to be taken for laws. For if we dispute about such matters, and condemn the custom of one Church by the custom of another, that will be an eternal occasion of strife and contention; which will always be diligent enough to find out plausible reasonings, when there are no certain arguments to show the truth. Therefore great caution ought to be used that we draw not a cloud over charity and eclipse its brightness in the tempest of contention.' He adds, a little after [11]: 'Such contention is commonly endless, engendering strifes, and terminating no disputes. Let us therefore maintain one faith throughout the whole Church, wherever it is spread, as intrinsical to the members of the body, although the unity of faith be kept with some different observations, which in no ways hinder or impair the truth of it. For all *the beauty of the King's daughter is within*, and those observations which are differently celebrated are understood only to be in her outward clothing. Whence she is said *to be clothed in golden fringes wrought about with divers colours.* But let that clothing be so distinguished by different observations, as that she herself may not be destroyed by oppositions and contentions about them.'

This was the ancient way of preserving peace in the Catholic Church, to let different Churches, which had no dependence in externals upon one another, enjoy their own liberty to follow their own customs without contradiction. For, as Gregory the Great [12] said to Leander, a Spanish bishop, 'there is no harm done to the Catholic Church by different customs, so long as the unity of the faith is preserved.' And therefore, though the Spanish Churches differed in some customs from the

[11] Ibid. (p. 77 a.)... Interminabilis est ista contentio, generans lites, non finiens quæstiones. Sit ergo una fides universæ, quæ ubique dilatatur, ecclesiæ, tanquam intus in membris, etiam si ipsa unitas fidei quibusdam diversis observationibus celebratur, quibus nullo modo, quod in fide verum est impeditur. *Omnis enim pulchritudo filiæ regis intrinsecus;* illæ autem observationes, quæ varie celebrantur, in ejus veste intelliguntur: unde ibi dicitur, *In fimbriis aureis circumamicta varietate.* Sed ea quoque vestis ita diversis celebrationibus varietur, ut non adversis contentionibus dissipetur.

[12] L. 1. Ep. 41. ad Leandr. (CC. t. 5. p. 1054 c.)...In una fide nihil officit sanctæ ecclesiæ consuetudo diversa.

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Roman Church, yet he did not pretend to oblige them to leave their own customs and usages to follow the Roman. He gave a like answer to Austin, the monk, archbishop of Canterbury, when he asked him, What form of divine service he should settle in Britain, the old Gallican, or the Roman? And how it came to pass, that when there was but one faith there were different customs in different Churches; the Roman Church having one form of service, and the Gallican Churches another? To this he replied [13], 'Whatever you find either in the Roman or Gallican, or any other Church, which may be more pleasing to Almighty God, I think it best that you should carefully select it, and settle it in the use of the English Church, newly converted to the faith. For we are not to love things for the sake of the place, but places for the sake of the good things we find in them. Therefore you may collect out of every Church whatever things are pious, religious and right; and putting them together, instil them into the minds of the English, and accustom them to the observation of them.' And there is no question but that Austin followed this direction in his new plantation of the English Church.

[13] Respons. ad Quæst. Augustin. ap. Bedam, Hist. Anglor. l. 1. c. 27. (p. 63. 15.)... Mihi placet, ut sive in Romana, sive in Galliarum, seu in qualibet ecclesia aliquid invenisti, quod plus Omnipotenti Deo possit placere, solicite eligas; et in Anglorum ecclesia, quæ adhuc ad fidem nova est, institutione præcipua, quæ de multis ecclesiis colligere potuisti, infundas. Non enim pro locis res, sed pro bonis rebus loca amanda sunt. Ex singulis ergo quibusque ecclesiis, quæ pia, quæ religiosa, quæ recta sunt elige, et hæc quasi in fasciculum collecta apud Anglorum mentes in consuetudinem depone.—Conf. Gratian. distinct. 12. c. 10. (Corp. Jur. Canon. t. 1. p. 45. 10.)—[Luther was of the same judgment, that all Churches should have liberty to appoint their own rites and ceremonies. See Epist. t. 2. p. 243. ap. Scultet. Annal. Decad. Prim. an. 1524. (Heildelberg. 1618. 8vo. p. 236.) Mihi non satis tutum videtur Concilium ex nostris cogi pro unitate cæremoniarum statuenda. Est enim res mali exempli, quantumvis bono zelo tentata, ut probant omnia ecclesiæ Concilia ab initio. Ita ut et in Apostolico Concilio ferme de operibus et traditionibus magis, quam de fide, sit tractatum; in posterioribus vero nunquam de fide, sed semper de opinionibus, et quæstionibus disputatum; ut mihi Conciliorum nomen pene tam suspectum et invisum sit, quam nomen liberi arbitrii! Si una ecclesia alteram sponte non vult invitari in externis istis, quid opus est Conciliorum decretis cogi, quæ mox in leges et animarum laqueos vertuntur? Imitetur ergo altera alteram libere, aut suis moribus sinatur fieri, modo unitas Spiritus salva sit in fide et verbo, quantumvis sit diversitas et varietas in carne et elemento mundi.—My ancestor having referred to this important passage in a manuscript note on the margin of his own first edition, I have been careful to give it here *in extenso*. Ed.]

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Neither was this liberty granted to different Churches in bare rituals, and things of an indifferent nature, but sometimes in more weighty points, such as the receiving or not receiving those that were baptized by heretics and schismatics without another baptism. This was a question long debated between the African, and Roman, and other Churches; yet without breach of communion, especially on their part, who followed the moderate counsels of Cyprian, who still pleaded for the liberty and independency of different Churches in this matter, leaving all Churches to act according to their own judgment, and keeping peace and unity with those that differed from him, as has been more fully shown in a former Book [14], where we discourse of the independency of bishops, especially in the African Churches.

The reader may find an account of some other questions in the same place, as candidly and moderately debated among them; as the question about clinic baptism, and the case of admitting adulterers to communion again, in which the practice of the African bishops was often different from one another; but they neither censured each other's practice, nor brake communion upon it. And sometimes the same moderation was observed in doctrinal points of lesser moment. For, as our learned and judicious writers [15] have observed out of St. Austin [16], besides the necessary articles of faith, there are other things about which the most learned and exact defenders of the Catholic rule do not agree, without dissolving the bond of faith. 'There are some questions, in which, without any detriment to the faith [17] that makes us Christians, we may

[14] B. 2. ch. 6. v. 1. p. 99.

[15] Barrow, Of the Unity of the Church. (Works, at the end of v. 1. p. 299.) There are points of less moment, &c.—See also Potter, Answer to Charity Mistaken, s. 3. (Lond. 1634. 8vo. p. 88.)

[16] Cont. Julian. Pelag. (t. 10. p. 510 a.) Alia sunt, quibus inter se aliquando doctissimi atque optimi regulæ Catholicæ defensores, salva fidei compage, non consonant, &c.

[17] De Peccat. Orig. cont. Pelag. et Cælest. l. 2. c. 23. (t. 10. p. 264 c.) Longe aliter se habent quæstiones istæ,.... quam sunt illæ in quibus, salva fide qua Christiani sumus, aut ignoratur quod verum sit, et sententia definitiva suspenditur; aut aliter quam est, humana et infirma suspicione conjicitur. Veluti cum quæritur, Qualis, aut ubi sit Paradisus, ubi constituit Deus hominem, quem formavit ex pulvere? cum tamen esse illum Paradisum fides Christiana non dubitet: vel cum quæritur, Ubi sit nunc Elias vel Enoch, an ibi, an alicubi alibi? quos tamen non dubitamus, in quibus nati sunt corporibus vivere: vel

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safely be ignorant of the truth, or suspend our opinion, or conjecture what is false by human suspicion and infirmity. As in the question about Paradise; What sort of place it is, and where it was that God placed the first man when he had formed him? Where Enoch and Elias now are, in Paradise or some other place? How many heavens there are, into the third of which St. Paul says he was taken?' With innumerable questions of the like nature, pertaining either to the secret work of God, or the hidden parts of Scripture, concerning which he concludes, 'that a man may be ignorant of them without any prejudice to the Christian faith, or err about them without any imputation of heresy.' This consideration made St. Austin[18] profess in his modesty, 'that there were more things in Scripture, which he knew not, than what he did know.' And if men should fiercely dispute about such things, and condemn one another for their ignorance or error concerning them, there would be no end of schisms and divisions in the Church. Therefore in such questions every man was at liberty to abound in his own sense, only observing this rule of peace, not to impose his own opinions magisterially upon others, nor urge his own sentiments as necessary doctrines or articles of faith in such points, where either the Scripture was silent, or left every man the liberty of opining.

What allowance was made for men, who out of simple ignorance broke communion with one another.

16. Nay, in some cases, a little allowance was made for men of honest minds, who broke communion with one another. For sometimes it happened that good Catholics were divided among themselves out of ignorance, and broke communion with one another for mere words, not understanding each other's sentiments. In which case all wise and moderate men had a just compassion for each party, and laboured to compose and unite

cum quæritur, Utrum in corpore an extra corpus in tertium cœlum sit raptus Apostolus? &c.—Conf. Enchirid. c. 59. (t. 6. p. 218 e.) Habemus quippe in Evangelio, *Ecce angelus Domini apparuit illis in somnis dicens.* His enim modis velut indicant se angeli contrectabilia corpora non habere: faciuntque difficillimam quæstionem, quomodo patres ejus pedes laverint, quomodo Jacob cum angelo tam solida contrectatione luctatus sit. Cum ista quæruntur, et ea, sicut potest, quisque conjectat, non inutiliter exercentur ingenia, si adhibeatur disceptatio moderata, et absit error opinantium se scire quod nesciunt. Quid enim opus est, ut hæc atque hujusmodi affirmentur vel negentur vel definiantur cum discrimine, quando sine crimine nesciuntur?

[18] Ep. 119. ad Januar. c. 21. (t. 2. p. 143 d.) .... Etiam in ipsis sanctis Scripturis multo nesciam plura quam sciam.

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them, without severely condemning either. Nazianzen[19] tells us there was a time when the ends of the earth were well nigh divided by a few syllables. It was in a controversy about the use of the words *τρία πρόσωπα* and *τρεῖς ὑποστάσεις*, in the doctrine of the Trinity. Each party was orthodox, and meant the same thing under different words; but not understanding one another's sense, they mutually charged each other with heresy. They, who were for calling the Three Divine Persons three *hypostases*, charged their adversaries as Sabellians; and they, on the contrary, returned the charge of Arianism upon them, as thinking they had taken three *hypostases* in the Arian sense, for three essences or substances of a different nature. But the great and good Athanasius, in his admirable prudence and candour, seeing into the false foundation of these disputes, quickly put an end to them, by bringing them to a right understanding of each other's sense, and allowing them to use their own terms without any difference in opinion. 'And this,' says our author, 'was a more beneficial act of charity to the Church than all his other daily labours and discourses: it was more honourable than all his watchings and humicubations, and not inferior to his flights and exiles.' And therefore he tells his readers, in ushering in the discourse[20], 'that he could not omit the relation without injuring them, especially at a time when contentions and divisions were in the Church; for this action of his would be an instruction to them that were then alive, and of great advantage, if they would propound it to their own imitation, since men were prone to divide not only from the impious, but from the orthodox and pious, and that not only about little and contemptible opinions, which ought to make no difference, but even about words that tended to the same sense, as was evident in the case before them.' Such was the candour and prudence of wise and good men in labouring to compose the unnecessary and verbal disputes of the orthodox, when they unfortunately happened to clash and quarrel without grounds one with another.

And they had some regard likewise to men of honest minds,

[19] Orat. 21. de Laud. Athanas. (t. 1. p. 396 a.) *Πίστεως ἔδοξε διαφορὰ ἡ περὶ τὸν ἦχον μικρολογία, κ. τ. λ.* See before, b. 6. ch. 3. s. 9. v. 2. p. 251. n. 97.

[20] Ibid. paul. ant. (p. 395b.) *Ὁ δέ μοι μάλιστα, κ. τ. λ.* See before, ibid. n. 98.

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who, through mere ignorance or infirmity, were engaged in greater errors. For they made a great distinction between heresiarchs and their followers; between the guides and the people; and between such as were born and bred in the Church, and afterward apostatized into heresy, and those that received their errors from the tradition and seduction of their parents. St. Austin[20], speaking of this latter sort, says, 'that they, who defend not a false and perverse opinion with any pertinacious animosity, especially if they did not by any audacious presumption of their own first invent it, but received it from the seduction of their erring parents, and were careful in their inquiries after truth, being ready to embrace it when they found it; that they were by no means to be reckoned among heretics.' That is, they had not the formality of heresy, which is pride and obstinacy in error; and therefore a more favourable opinion might be conceived of them above others, who first founded heresies, or embraced them afterwards out of some vicious corruption of mind, having a greater regard to their own lusts and pleasures of unrighteousness than any sincere love for truth. Though such weak and injudicious persons could not be wholly excused from error, or schism, or sin, yet in comparison of others their case was thought capable of some proper allowances: and therefore they were neither so severely punished in the Church here, nor reputed so great objects of God's displeasure hereafter. For, as Salvian[21] words it in the case of some who embraced the Arian heresy, 'they erred indeed, but they erred with a good mind; not out of any hatred to God, but with affection to him, thinking thereby to honour and love the Lord. Although they had not the true faith, yet they imagined this their opinion to be perfect charity towards God. And how they shall be punished for this error of their

[20] Ep. 162. [al. 43. c. 1.] ad Episc. Donat. p. 277. (t. 2. p. 88 g.) Sed qui sententiam suam, quamvis falsam atque perversam, nulla pertinaci animositate defendunt, præsertim quam non audacia præsumptionis suæ pepererunt, sed a seductis atque in errorem lapsis parentibus acceperunt, quærunt autem cauta solicitudine veritatem, corrigi parati cum invenerint, nequaquam sunt inter hæreticos deputandi.

[21] De Gubernat. l. 5. n. 2. p. 154. (p. 94.) Errant ergo, sed bono animo errant; non odio, sed affectu Dei, honorare se Dominum atque amare credentes. Quamvis non habeant rectam fidem, illi tamen hoc perfectam Dei æstimant caritatem. Qualiter pro hoc ipso falsæ opinionis errore in die judicii puniendi sunt, nullus potest scire nisi judex.

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false opinion in the day of judgment, no one knows but the Judge alone.'

17. This occasioned a little distinction sometimes to be made between heresiarchs, or the first authors of heresy, and those that were ignorantly drawn into error by their seducement and delusions, as we shall see more in speaking of the discipline and censures of the Church. In the mean time, I observe that because the Church could not ordinarily judge of men's hearts, nor always know the means and motives that engaged them in error or schism, she was forced to proceed commonly by another rule, and judge of their unity with her by their external communion and professions. And because there were several sorts and degrees of unity, as we have seen before, so that a man might be in the communion of the Church in one respect, and out of it in another; therefore the Church went by this rule, to judge none to be in her perfect unity but such as were in full communion with her. Upon which account, though heretics and schismatics and excommunicate persons and profane men were, in some sense, of the Church, as having received baptism, which they always retained, and as making profession of some part of the Christian faith; yet, because in other respects they were broken off from her, they were not esteemed sound and perfect members of the body, but looked upon as withered and decayed branches, for want of such unity in other respects as is necessarily required to denominate a man a real and complete Christian, which is a title allowed to none but such as are in full communion with the Church of Christ. This distinction between total and partial unity, and total and partial schism and separation, is of great use to make a man understand all those sayings of the Ancients, which speak of heretics and schismatics and excommunicate persons and profligate sinners, as being in some measure in and of the Church, at the same time that they were reputed really and truly separated from her.

Of different degrees of unity; and that no one was esteemed to be in the perfect unity of the Church, who was not in full communion with her.

Thus Optatus[22] tells the Donatists 'that they were divided

[22] L. 3. p. 72. (p. 78.) In parte vestis adhuc unum sumus, sed in diversa pendemus. Quod enim scissum est, ex parte divisum est, non ex toto concisum. Et merito, quia nobis et vobis una est ecclesiastica conversatio: et si hominum litigant mentes, non litigant sacramenta. Denique possumus et nos dicere, Pares credimus, et uno si-

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from the Church in part, not in every respect: for that was the nature of a schism, to be divided in part, not totally cut asunder. And that for very good reason, because both we and you have the same ecclesiastical conversation; though the minds of men be at variance, the sacraments do not vary. We have all the same faith, we are all signed with the same seal: we are no otherwise baptized than you are, nor otherwise ordained than you are. We all read the same divine Testament, we all pray to the same God. The Lord's Prayer is the same with us as it is with you: but there being a rent made, as was said before, by the parts hanging this way and that way, an union was necessary to restore the whole to its integrity.' He repeats this again in other places[23]: 'Both you and we have the same ecclesiastical conversation, the same common lessons, the same faith, the same sacraments of faith, the same mysteries.' And upon this score he frequently tells them they were their brethren still, whether they would or not. 'Though the Donatists hate us,' says he[24], 'and abhor us, and will not be called our brethren, yet we cannot depart from the fear of God: they are without doubt our brethren, though not good brethren. Therefore let no one wonder that I call them brethren, who cannot be otherwise than our brethren, seeing both they and we have one and the same spiritual nativity, though our actions are different from one another.' 'Ye cannot but be our brethren,' says he again[25] to them, 'whom one mother the

gillo signati sumus: nec aliter baptizati quam vos: nec aliter ordinati quam vos. Testamentum divinum legimus pariter: unum Deum rogamus. Oratio Dominica apud nos et apud vos una est, sed scissura (ut supra diximus) facta, partibus hinc atque inde pendentibus, sartura fuerat necessaria.

[23] L. 5. p. 84. (p. 99.)...Denique apud vos et apud nos una est ecclesiastica conversatio, communes lectiones, eadem fides, ipsa fidei sacramenta, eadem mysteria.

[24] L. 1. p. 34. (p. 4.) Quamvis... nos odio habent, et execrentur, et nolunt se dici fratres nostros; tamen nos recedere a timore Dei non possumus... Sunt igitur sine dubio fratres, quamvis non boni. Quare nemo miretur, eos me appellare fratres, qui non possunt non esse fratres. Est quidem nobis et illis una spiritualis nativitas, sed diversi sunt actus, &c.—So in the Conference of Carthage, die 3. n. 233. (CC. t. 2. p. 1491 a. Ad calc. Optat. p. 84 b.) the Catholics say, Propter sacramenta frater est, sive bonus sive malus.

[25] L. 4. p. 77. (p. 88.) Non enim non potestis esse fratres, quos iisdem sacramentorum visceribus una mater ecclesia genuit; quos eodem modo adoptivos filios Deus Pater excepit...Videtis nos non in totum ab invicem esse separatos, dum et nos pro vobis oramus volentes; et vos pro nobis oretis, etsi nolentes. Vides, frater Parmeniane, sancta

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Church hath born in the same bowels of her sacraments; whom one God, as a father, hath received after one and the same manner, as adopted children. We all pray, Our Father which art in heaven! whence you may perceive that we are not totally separated from one another, whilst we pray for you willingly, and you pray for us, though against your will. You may hence see, brother Parmenian, that the sacred bonds of brotherhood between us and you cannot be totally broken asunder.' St. Austin[26] always discourses after the same manner concerning this union in part: 'In many things ye are one with us, in baptism, in the Creed, and the rest of God's sacraments.' And hence he also concludes[27], 'that whether they would or no, they were their brethren, and could not cease to be so, so long as they continued to say, Our Father!

germanitatis vincula inter nos et vos in totum rumpi non posse.

[26] Ep. 48. [al. 93.] ad Vincent. p. 71. (t. 2. p. 249 e, f.) ..... In multis enim estis nobiscum .... in baptismo, in Symbolo, in cæteris Dominicis sacramentis. In spiritu autem unitatis, et vinculo pacis, in ipsa denique Catholica ecclesia nobiscum non estis.

[27] In Psal. 32. Serm. 2. p. 91. [al. Enarrat. 3.] (t. 4. p. 207 d.) Velint nolint, fratres nostri sunt. Tunc esse desinent fratres nostri, si desierint dicere, *Pater noster.* Dixit de quibusdam Propheta, *His, qui dicunt vobis, Non estis fratres nostri, dicite, Fratres nostri estis.** Circumspicite, de quibus hoc dicere potuerit: numquid de Paganis? Non, neque enim dicimus eos fratres nostros secundum Scripturas, et ecclesiasticum loquendi morem. Numquid de Judæis, qui in Christum non crediderunt? Legite Apostolum et videte, quia *fratres* quando dicit Apostolus sine aliquo additamento, non vult intelligi nisi Christianos: *Non est autem subjectus*, inquit, *frater, aut soror in hujusmodi:* cum diceret de conjugio, fratrem et sororem dixit Christianum vel Christianam. Item dicit, *Tu autem quid judicas fratrem tuum, aut tu quid spernis fratrem tuum?* Et alio loco, *Vos*, inquit, *iniquitatem facitis et fraudatis, et hoc fratribus.* Isti ergo, qui dicunt, Non estis fratres nostri, Paganos nos dicunt. Ideo enim et rebaptizare nos volunt, dicentes nos non habere, quod dant. Unde consequens est error ipsorum, ut negent nos fratres suos esse. Sed quare nobis dixit Propheta, *Vos dicite illis, Fratres nostri estis*, nisi quia nos in eis agnoscimus, quod non repetimus? Illi ergo non agnoscendo baptismum nostrum negant nos esse fratres: nos autem non repetendo ipsorum, sed agnoscendo nostrum, dicimus eis, Fratres nostri estis. Dicant illi, Quid nos quæritis, quid nos vultis? Respondeamus, Fratres nostri estis. Dicant, Ite a nobis, non vobiscum habemus rationem. Nos prorsus vobiscum rationem habemus: unum Christum confitemur, in uno corpore, sub uno capite esse debemus. Quid ergo me quæris, ait, si perii?.. Quare quærerem, nisi quia periisti? Si ergo perii, inquit, quomodo sum frater tuus? Ut dicatur mihi de te, *Frater tuus mortuus erat, et revixit; perierat, et inventus est*, &c.

* [See Albaspiny in Optat. l. 1. (p. 4. n. t. in verba, *Væ facientibus velumen*), alleging Is. 66, 5, as then read. Ed.]

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and did not renounce their creed and their baptism. For there was no medium between Christians and Pagans. If they retained faith, and baptism, and the common prayer of the Lord, which teaches all men to style God their Father; so far they were Christians: and as far as they were Christians, so far they were brethren, though turbulent and contentious, who would neither keep the unity of the Spirit in the bond of peace, nor continue to be united in the Catholic Church with the rest of their brethren.'

By all this it is evident, 1. That there were different degrees of unity and schism, according to the proportion of which, a man was said to be more or less united to the Church, or divided from it. 2. That they, who retained faith and baptism and the common form of Christian worship, were in those respects one with the Church; though in other respects, wherein their schism consisted, they were divided from her. So they might be said to be brethren, and not brethren; sons of God, and not sons of God; of the house of God, and not of the house of God; according to the different acceptations of these terms, and the different proportion and degrees of that unity or schism, whereby they were united to the Church, or separated from her. 3. That to give a man the denomination of a true Catholic Christian, absolutely speaking, it was necessary that he should in all respects, and in every kind of unity, be in perfect and full communion with the Church; that is, in faith, in baptism, in holiness of life, in charity, in worship, and all holy offices, and in all the necessary parts of government and discipline: but to denominate a man a schismatic, it was sufficient to break the unity of the Church in any one respect; though the malignity of his schism was to be interpreted more or less, according to the degrees of the separation that he made from her. And by these rules it is easy for any one to understand, what the Ancients meant by unity and schism, and how the discipline of the Church was exercised and maintained by obliging men to live in perfect and full communion with her, which I come now more particularly to explain and consider.

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CHAP. II.

Of the discipline of the Church, and the various kinds of it, together with the various methods observed in the administration of it.

1. The discipline of the Church being intended, as was observed before, only to preserve the unity and purity of her own members in one communion, we are not to look for the exercise of it upon any but such as in some measure made profession of being joined in society with her; which were either baptized persons, or at least candidates of baptism: for she pretended not to exercise discipline upon any others which were without, but such only as were within the pale, in the largest sense, by some act of their own profession. And even upon these she never pretended to exercise her discipline so far as to cancel or disannul their baptism, so as to oblige them to take a second baptism, if their first was good, in order to be admitted into the Church again, when for any crime they were cast out of it. For even heretics and apostates, who made the greatest breach of Christian unity, were never so far divided from the Church, but that still they retained some distant relation to her by baptism, whose character was indelible, even in the greatest apostasy that can be imagined, even in the total abjuration of the Christian faith: the obligation of their baptism still lay upon them, and with what severity soever they were treated in their repentance, if ever they returned to the Church again, there is no instance of receiving them by a second baptism, which, if once lawfully given, was for ever after forbidden to be repeated upon any account whatsoever. I will not stand to prove this here, because I have had occasion once or twice before[28] to speak largely upon it; but only observe, that it was no part of the discipline of the Church to deny men the original right they had in baptism; and consequently that the most formal casting them out of communion was never intended to signify that they were mere Heathens and Pagans, and that they could not be admitted again into the Church without a repetition of their baptism.

That the discipline of the Church did not consist in cancelling or disannulling any man's baptism.

[28] B. 12. ch. 5. v. 4. p. 249., and part 2. ch. 6., in the ninth volume Scholastic History of Lay-Baptism, this Edition.

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But in excluding men from the common benefits and privileges consequent to baptism.

2. But the discipline of the Church consisted in a power to deprive men of all the benefits and privileges of baptism, by turning them out of the society and communion of the Church in which these privileges were only to be enjoyed; such as joining in public prayer, and receiving the eucharist, and other acts of divine worship: and sometimes they were wholly forbidden to enter the church, so much as to hear the Scriptures read or hear a sermon preached, till they showed some signs of relenting; and every one shunned and avoided them in common conversation, partly to establish the Church's censures and proceedings against them, and partly to make them ashamed, and partly to secure themselves from the danger of contagion and infection.

This power originally a mere spiritual power, though in some cases the secular arm was called in to give its assistance.

3. Thus far the Church went in her censures by her own natural right and power, but no further: for her power originally was a mere spiritual power; her sword only a spiritual sword, as Cyprian[29] terms it, to affect the soul, and not the body. Over the bodies of men she pretended no power; no nor yet over their estates, except such as were purely ecclesiastical, and of her own donation, to resume what was her own property and gift from such as were contumacious and rebellious against her censures. In which case she sometimes craved assistance from the secular power, even whilst it was Heathen, and more frequently when it was become Christian. Thus when the Council of Antioch had deposed Paulus Samosatensis, and substituted Domnus in his room, but could not remove him by any power of their own from the house belonging to the Church, which he still kept possession of, they had recourse to Aurelian, the Heathen emperor, who did them justice upon appeal, ordering the house to be delivered to those to whom the bishops of Italy and Rome should write with approbation: 'and so,' says Eusebius[30], 'Paul was cast out of the Church with the highest disgrace by the help of the secular power.' This was more common after the emperors were become Christians: for then they could with greater liberty and confidence appeal to them, and beg their assistance upon such

[29] Ep. 62. [al. 4.] ad Pomponian. p. 9. (p. 175.) .... Spiritali gladio superbi et contumaces necantur, dum de ecclesia eiiciuntur.

[30] L. 7. c. 30. (v. 1. p. 364. 10.)... *Μετὰ τῆς ἐσχάτης αἰσχύνης ὑπὸ τῆς κοσμικῆς ἀρχῆς ἐξελαύνεται τῆς ἐκκλη-*

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occasions. And then canons were made to authorize such addresses, that the censures of the Church might have their effect and force upon contumacious and obstinate offenders.

Such an order was made in the Council of Antioch[31], anno 341, in the reign of Constantius, 'that if a presbyter who set up a separate meeting against his bishop, and was, after admonition, deposed for his crime, still continued obstinately to disturb and subvert the Church, he should be corrected by the external power, (that is, the civil magistrate,) as a seditious person.' Such another canon was made in the third Council of Carthage[32], in the case of one Cresconius, an African bishop, who having left his own bishopric, and intruded himself into another, where he stayed in spite of all ecclesiastical censures, orders were given to petition the secular magistrate by his authority to remove him. And this canon was inserted as a general and standing rule into the African Code[33]: where we have also a like constitution[34] against such presbyters as set up new bishoprics in the diocese of their own bishop without his consent: they were 'to be deprived and removed out of such places as rebels; *ἀρχοντικῇ δυναστείᾳ, by the governing power of the secular magistrate.*' And in another canon[35] mention is made of 'letters to be sent from the Synod to the magistrates of Africa, to petition them to yield their assistance to their common mother, the Catholic Church, against the Donatists, forasmuch as the authority of bishops was con-

[31] C. 5. (t. 5. p. 564 d.).... *Εἰ δὲ παραμένοι θορυβῶν καὶ ἀναστατῶν τὴν ἐκκλησίαν, διὰ τῆς ἔξωθεν ἐξουσίας ὡς στασιώδη αὐτὸν ἐπιστρέφεσθαι.*

[32] C. 38. (ibid. p. 1172 c.).... Ut dignemini dare fiduciam, qua, necessitate ipsa cogente, liberum sit ad præsidem regionis adversus illum accedere, secundum constitutionis cl. imperatorum .... ut sæcularis magistratus auctoritate prohibeatur. [Somewhat differently worded in Labbe. See also Crabbe's Edition, (t. 1. p. 429.).... Ut qui miti admonitioni sanctitatis vestræ acquiescere noluit, et emendare illicitum, auctoritate judiciaria protinus excludatur. Ed.]

[33] C. 49. [al. 48.] (ibid. p. 1071 d.) *Αἰτοῦμεν κατὰ τὸ ἐνταλὲν ἡμῖν, ἵνα καταξιώσητε δοῦναι παρρησίαν ἐπ' ἀδείας ἡμῖν γενέσθαι· ὅτι αὕτη ἡ ἀνάγκη παρασκευάζει τῷ ἄρχοντι τῆς χώρας κατ' ἐκείνου προσελθεῖν, κατὰ διατάξεις τῶν ἐνδοξοτάτων βασιλέων, ἵνα ὁ τῇ πράᾳ ὑπομνήσει τῆς ὑμετέρας ἀγωσύνης πειθαρχῆσαι μὴ θελήσας, καὶ διορθώσασθαι τὸ ἀσυγχώρητον, αὐθεντίᾳ ἀρχοντικῇ παραχρῆμα κωλυθῇ.*

[34] Ibid. c. 54. [al. 53.] (p. 1078 b.).... *Καὶ τῶν ἰδίων τόπων ἀρχοντικῇ στερῆσαι, ὡς ἀντάρτας, δυναστείᾳ.*

[35] Ibid. c. 73. [al. 77.] (p. 1090 e.) *Ἥρεσε τοίνυν, ἵνα ἐκ τῆς ἡμετέρας συνόδου γράμματα πρὸς τοὺς τῆς Ἀφρικῆς ἄρχοντας δοθῶσιν, ἀφ' ὧν αἰτῆσαι Ἀρμόδιον ἔδοξε, περὶ τοῦ βοηθῆσαι τῇ κοινῇ μητρὶ, τῇ Καθολικῇ ἐκκλησίᾳ, ἐν οἷς ἡ τῶν ἐπισκόπων αὐθεντία ἐν ταῖς πόλεσι καταφρονεῖται.*

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temned in every city.' This petition is more particularly explained in another canon[36], which grants a commission to certain bishops to go as legates in the name of the Church to the Emperors Arcadius and Honorius, and complain of the violences offered by the Donatists, who had invaded many of their churches, and kept them by force; against which they desired the emperors to grant them a suitable help by a military guard; 'it being no unusual thing, nor against the Scripture, to be protected, as St. Paul was, by a band of soldiers against the conspiracy of insolent and factious men.' They requested also 'that the emperors would put in execution the law which Theodosius their father, of pious memory, had enacted against heretics, whereby every one that ordained or was ordained by them, was amerced in the sum of ten pounds of gold.' The law they refer to is still exstant in the Theodosian Code[37], running in these terms: 'If proof is made against any who are engaged in heretical errors, that they either have ordained clerks, or received the office of a clerk, a mulct of ten pounds in gold is by our order to be imposed upon them: and the place in which any of these unlawful things were attempted, if done by the connivance of the owner, shall be confiscated. But if the possessor was ignorant of the matter, then he that rented the farm, if he be a freeman, shall forfeit ten pounds of gold to the exchequer; or if he be descended of a servile condition, and cannot bear the penalty, then he shall be beaten with rods, and sent into banishment.'

[36] Ibid. c. 95. [al. 93.] (p. 1110 c.) *Κατὰ οὖν τῆς ἐκείνων μανίας δυνάμεθα συμμαχίας θείας τυχεῖν, οὐκ ἀήθους δέ, οὐδὲ ἀλλοτρίας ἀπὸ τῶν ἁγίων Γραφῶν, ὁπόταν Παῦλος ὁ Ἀπόστολος, ὡς ταῖς ἀληθιναῖς Πράξεσι τῶν Ἀποστόλων δεδήλωται, τὴν σύμπνοιαν τῶν ἀτάκτων στρατιωτικῇ ἀπεκίνησε βοηθείᾳ. . . . Ἅμα καὶ τοῦτο δεῖ αἰτῆσαι, ὥστε τὸν νόμον, τὸν ἐκτεθέντα παρὰ τοῦ τῆς εὐσεβοῦς μνήμης πατέρος αὐτῶν Θεοδοσίου, τὸν περὶ τῶν δέκα τοῦ χρυσίου λιτρῶν, τὸν κατὰ τῶν χειροτονούντων καὶ χειροτονουμένων αἱρετικῶν φυλάξωσιν, ἔτι μὴν καὶ κατὰ κτητόρων, τῶν παρ' οἷς η ἐκείνων εὑρεθῇ συναγωγή· εἶθ' οὕτως βεβαιωθῆναι τὸν τοιοῦτον νόμον κελεύσωσιν, ὡς ἰσχύειν κατὰ τούτων, ὧν διὰ τὰς ἐπιβουλὰς οἱ τῆς Καθολικῆς προτραπέντες διαμαρτυρίαν ἀπέθεντο.*

[37] L. 16. t. 5. de Hæreticis, leg. 21. (t. 6. p. 138.) In hæreticis erroribus quoscunque constiterit vel ordinasse clericos, vel suscepisse officium clericorum, denis libris auri viritim mulctandos esse censemus: locum sane, in quo vetita temptantur, si conhibentia domi patuerit, fisci nostri viribus aggregari. Quod si id possessorem (quippe clanculum gestum) ignorasse constiterit, conductorem ejus fundi, si ingenuus est, decem auri libras fisco nostro inferre præcipimus: si, servili fæce descendens, paupertate sui pœnam damni ac vilitate contemnit, cæsus fustibus deportatione damnabitur.

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This was that famous penal law of Theodosius against all heretics in general, so often mentioned by St. Austin, and which he with the rest of the African fathers desired Honorius to confirm, so that it might specify and affect the Donatists, more particularly such of them as by open or secret violence made assaults upon the Catholic Church. They did not desire that this penalty should be inflicted indifferently upon all the Donatists, but only such as the Circumcellions and others, who in their mad zeal and fury committed violent outrages against the Catholics: but Honorius extended the penalty to them all, and enforced the old law of Theodosius his father, by a new law of his own[38], wherein the Donatists were particularly named as heretics, who upon conviction or confession were to be fined in the sum of ten pounds of gold, according to the tenour of the former law.

No one better understood either the reasons or the effects of this law than St. Austin, and therefore it cannot be better explained than, as Gothofred does it, in his words. Now he, writing to Count Boniface, an African magistrate, gives this account of it. 'Before those laws,' says he[39], 'were sent into Afric, which compel heretics to come into the Church, some of our brethren, among whom I was one, were of opinion, that although the madness of the Donatists raged every where, yet we should not petition the emperors to forbid any one simply to be of that heresy, by inflicting punishment on all that embraced it, but only desire them to make a law to restrain

[38] Ibid. leg. 39. (p. 158.) Donatistæ superstitionis hæreticos, quocunque loci, vel fatentes, vel convictos, legis tenore servato, pœnam debitam absque dilatione persolvere decernimus.

[39] Ep. 1. [al. 185. c. 7.] ad Bonifac. p. 84. (t. 2. p. 653 f.) Veruntamen antequam istæ leges, quibus ad convivium sanctum coguntur intrare, in Africam mitterentur, nonnullis fratribus videbatur, in quibus et ego eram, quamvis Donatistarum rabies usquequaque sæviret, non esse petendum ab imperatoribus, ut ipsam hæresin juberent omnino non esse, pœnam constituendo eis, qui in illa esse voluissent; sed hoc potius constituerent, ut eorum furiosas violentias non paterentur qui veritatem Catholicam vel prædicarent loquendo, vel legerent constituendo. Quod eo modo fieri aliquatenus posse arbitrabamur, si legem piissimæ memoriæ Theodosii, quam generaliter in omnes hæreticos promulgavit, *ut quisquis eorum episcopus vel clericus, ubilibet esset inventus, decem libris auri mulctaretur*, expressius in Donatistas, qui se negabant hæreticos, ita confirmarent, ut non omnes ea mulcta ferirentur, sed in quorum regionibus aliquas violentias a clericis, vel a Circumcellionibus, vel populis eorum, ecclesia Catholica pateretur: ut scilicet post

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them from offering violence to any that either preached or held the Catholic faith. Which we thought might in some measure be done after this manner: if the law of Theodosius of pious memory, which he had promulged against all heretics in general, that whoever was found to be a bishop or clerk anywhere among them, should forfeit ten pounds in gold, were more expressly confirmed against the Donatists, who denied themselves to be heretics in such a manner as that the penalty should not be inflicted upon them all, but only upon those, in whose regions the Catholic Church suffered violence from their clergy, or the Circumcellions, or their people, so as after the protestation of the Catholics, who suffered from them, the magistrates should compel their bishops or ministers to pay the fine. For so we thought that by this means they might be terrified from daring any such attempts, and the Catholic truth might be taught and held freely, so as no one should be compelled to it, but every one that would might embrace it without fear, and we should have no false or counterfeit Catholics. And though others of our brethren were of a different opinion, who by their age had greater experience, and could plead the example of many cities and places, where we saw the Catholic Church firmly and truly settled, which yet was there settled by such kind methods of Divine Providence, whilst men were compelled by the laws of former emperors to come into the Catholic communion, yet notwithstanding this we prevailed that our petition should be presented to the emperors in the fore-

protestationem Catholicorum, qui fuissent ista perpessi, jam cura ordinum ad persolvendam mulctam episcopi sive ministri cæteri tenerentur. Ita enim existimabamus, eis territis ut nihil tale facere audentibus, posse libere doceri et teneri Catholicam veritatem, ut ad eam cogeretur nemo, sed eam, qui sine formidine vellet, sequeretur, ne falsos et simulatores Catholicos haberemus. Et quamvis aliis fratribus aliud videretur, jam ætate gravioribus, vel multarum civitatum et locorum exempla cernentibus, ubi firmam et veram Catholicam videbamus, quæ tamen ibi talibus beneficiis Dei constituta esset atque firmata, dum per priorum imperatorum leges ad communionem homines Catholicam cogerentur; obtinuimus tamen, ut illud potius, quod dixi, ab imperatoribus peteretur: decretum est in concilio nostro, legati ad comitatum missi sunt. Sed Dei major misericordia, qui sciret, harum legum terror, et quædam medicinalis molestia quam multorum esset pravis vel frigidis animis necessaria, et illi duritiæ, quæ verbis emendari non potest, sed tamen aliquantula severitate disciplinæ potest, id egit, ut legati nostri, quod susceperant, obtinere non possent. Jam enim nos prævenerant ex aliis locis quædam episcoporum querelæ gravissimæ, qui mala fuerant ab ipsis multa perpessi, et a suis sedibus exturbati;

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said form. And thereupon a decree was drawn up in council, and our legates were dispatched to court. But the greater mercy of God, who better knew how necessary the terror of such laws, and a little medicinal trouble is, for the wicked or cold hearts of many men, and for that hardness of mind which cannot be corrected by words, but may by a little severity of discipline, so ordered the matter, that our legates could not obtain the thing they had undertaken. For before they could get to court to present our petition, several grievous complaints had been made by the bishops of other places, who had suffered extremely from the Donatists, and were driven from their sees by them: especially the horrible and incredible murder of Maximian, the Catholic bishop of Vaga, made it impossible for our embassy to succeed. For now a law was already promulged against the barbarous Donatist heresy, the very sparing which seemed more cruel than the cruelty which themselves exercised, that not only its violence, but its very being should not be tolerated or suffered to go unpunished. Yet to observe Christian meekness, even toward the unworthy, the penalty proposed was not death, but only a pecuniary mulct, and banishment for the bishops and ministers.' Then relating particularly the barbarous usage of Maximian, and their unparalleled cruelty towards him, he adds, 'that the emperor being well apprised of these facts, in his great piety and concern for religion, chose rather universally to correct that impious error by wholesome laws, and

præcipue horrenda et incredibilis cædes Maximiani, episcopi Catholici ecclesiæ Bagaiensis effecit, ut nostra legatio jam, quid ageret, non haberet. Jam enim lex fuerat promulgata, ut tantæ immanitatis hæresis Donatistarum, cui crudelius parci videbatur, quam ipsa sæviebat, non tantum violenta esse, sed omnino esse non sineretur impune: non tamen supplicio capitali, propter servandam etiam circa indignos mansuetudinem Christianam, sed pecuniariis damnis propositis, et in episcopos vel ministros eorum exsilio constituto, &c.—Ibid. (p. 655 d.) Hinc ergo factum est, ut imperator religiosus et pius, perlatis in notitiam suam talibus caussis, mallet piissimis legibus illius impietatis errorem omnino corrigere, et eos, qui contra Christum Christi signa portarent, ad unitatem Catholicam terrendo et coërcendo redigere, quam sæviendi tantummodo auferre licentiam, et errandi ac pereundi relinquere. Tum vero, cum ipsæ leges venissent in Africam, præcipue illi, qui quærebant occasionem, aut sævitiam furentium metuebant, aut suos verecundabantur offendere, ad ecclesiam continuo transierunt. Multi etiam, qui sola illic a parentibus tradita consuetudine tenebantur, qualem vero causam ipsa hæresis haberet, nunquam antea cogitaverant, nunquam quærere et considerare voluerant, mox ubi cœperunt advertere et nihil in ea dignum invenire, propter quod tanta damna paterentur, sine ulla difficultate Catholici facti sunt. Docuit enim eos solicitudo, quos negli-

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reduce those who carried the badge of Christ against Christ to Catholic unity by terror and punishment, than barely to take from them the liberty of exercising their cruelty, and leave them at liberty to err and perish.' He observes further, 'that as soon as ever these laws appeared in Afric, they wrought wonderful effects upon the minds of men: for immediately all such as waited only for a proper occasion, or were kept back merely by the dread of the cruelty of those frantic men, or were afraid to offend their relations, came over at once to the Catholic Church. Many also, who were detained in schism merely by the custom they had been trained up to by their parents, but had never spent a thought about the grounds and reasons of their error, nor would consider or make any inquiry into the merits of the cause, when once they began to consider it, and found nothing in it worth suffering so great loss, they without any difficulty became Catholic Christians. For a concern for their own safety brought them to understanding, who before were grown negligent by security. Many also, who were less capable of understanding and judging by themselves what was the difference between the error of the Donatists and the Catholic truth, were induced to follow the authority and persuasion of so many examples going before them. So the true mother received great multitudes of people into her bosom again rejoicing, and only an hardened company remained obstinate by their unhappy animosity in that pernicious way. And many of these also communicated with the Church by a sort of dissimulation: but they who at first dissembled afterwards by degrees accustoming themselves to the way of the Church, and hearing the preaching of truth, especially after the conference and disputation which was held between their bishops and us at Carthage, did at last for the most part correct their errors also.'

gentes securitas fecerat. Istorum autem omnium præcedentium auctoritatem et persuasionem secuti sunt multi, qui minus idonei erant per se ipsos intelligere, quid distaret inter Donatistarum errorem et Catholicam veritatem. Ita cum magna agmina populorum vera mater in sinum gaudens reciperet, remanserunt turbæ duræ, et in illa peste infelici animositate sistentes. Ex his quoque plurimi simulando communicaverunt, alii paucitate latuerunt. Sed illi, qui simulabant, paullatim assuescendo et prædicationem veritatis audiendo, maxime post collationem et disputationem, quæ inter nos et episcopos eorum apud Carthaginem fuit, ex magna parte correcti sunt.

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This is the account which St. Austin gives both of the reasons and effects of this penal law, which he frequently mentions in other places[40], carefully collected by Gothofred, but needless here to be recited. I only observe these few things upon the whole matter. 1. That though it was no part of the Church's discipline to use any manner of force to give effect to her censures; yet in case of obstinate opposition and contempt she did not think it unlawful to take the assistance of the secular power. 2. That in case of violence offered to the Church or any of her ministers or her members, there was still more reason to petition for defence against them. 3. That it was generally thought useful to inflict some moderate temporal

[40] Ep. 68. [al. 88.] ad Januar. (t. 2. p. 216 f.).... Crispinus judicatus hæreticus, nec pœna decem librarum auri, quæ in hæreticos ab imperatoribus fuerat constituta, mansuetudinem Catholicam feriri permissus est, et tamen ad imperatores appellandum putavit. Cujus appellationi quod ita responsum est, nonne vestrorum præcedens improbitas et eadem ipsius appellatio extorsit, ut fieret: nec tamen etiam post ipsum rescriptum, intercedentibus apud imperatorem nostris episcopis, eadem auri condemnatione mulctatus est? Ex concilio autem nostri episcopi legatos ad comitatum miserunt, qui impetrarent, ut non omnes episcopi et clerici partis vestræ ad eandem condemnationem decem librarum auri, quæ in omnes hæreticos constituta est, tenerentur; sed hi soli, in quorum locis aliquas a vestris violentias ecclesia Catholica pateretur. Sed cum legati Romam venerunt, jam cicatrices episcopi Catholici Bagaitani horrendæ ac recentissimæ imperatorem commoverant, ut leges tales mitterentur; quales et missæ sunt.—Ep. 166. [al. 105.] ad Donatistas. (ibid. p. 298 b.) Et tamen cum Crispinus propter hoc factum in proconsulari judicio convinceretur hæreticus, ejusdem episcopi Possidii intercessu decem libras auri non est exactus. Cui benevolentiæ et mansuetudini ingratus ad imperatores Catholicos ausus est appellare. Unde hanc in vos iram Dei de qua murmuratis, multo importunius et vehementius provocavit.—Cont. Crescon. l. 3. c. 47. (t. 9. p. 461 g. et p. 462 a.) Exhibitus igitur Crispinus, et, quod se esse proconsuli quærenti negaverat, facillime convictus hæreticus, decem tamen libras auri, quam mulctam in omnes hæreticos imperator major Theodosius constituerat, intercedente Possidio, non est compulsus exsolvere. Qua mitissima sententia non contentus, nescio quo consilio, quod displicuisse vestris omnibus dicebatur, ad ejusdem Theodosii filios provocandum putavit. Acceptatum est, rescriptum est. Quid aliud, nisi quod pars Donati jam sciret se ad illam pœnam aurariam cum cæteris hæreticis pertinere? &c.—Cont. Liter. Petilian. l. 2. c. 83. (ibid. p. 269 b, c.) Ipsa ecclesia Catholica solidata principibus Catholicis imperatoribus terra marique armatis turbis ab Optato atrociter et hostiliter oppugnata est. Quæ res coëgit tunc primo adversus vos allegari apud vicarium Seranum legem illam de decem libris auri, quas nullus vestrum adhuc pendit, et nos crudelitatis arguitis.—Ep. 173. [al. 66.] ad Crispin. ipsum. (t. 2. p. 155 b.) Nam possemus agere, ut decem libras auri secundum imperatoria jussa persolveres. An forte propterea non habes, unde reddas, quod dare jussi sunt rebaptizatores, dum mulctam erogas, ut emas, quos rebaptizes?

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punishments upon obstinate heretics, and schismatics, and other offenders, (with a liberty of indulging and remitting the penalty as prudence directed,) in order to bring them to consider and examine the grounds of truth and error, and humble them by repentance, and restore them to the communion of the Church from whence they were fallen.

This assistance never required to proceed so far, as, for mere error, to take away life, or shed blood.

4. But then it is also to be considered, that the Church never encouraged any magistrate to proceed further in her behalf against any one for any mere error or ecclesiastical misdemeanour, than to punish the delinquent with a pecuniary mulct, or bodily punishment short of death, such as confiscation or banishment, unless it were in case of capital crimes, and of a civil nature, which fell directly under the cognizance of the civil magistrate, as treason or rebellion, which the imperial laws punished with death. There are indeed some laws in the Theodosian Code which order heretics to be prosecuted with capital punishments. Theodosius made a decree[41] against some of the Manichees, which went by the name of *Encratites*, *Saccophori*, and *Hydroparastatæ*, that they should be punished with death, at the same time that the *Solitarii*, another sect among them, should only suffer confiscation. Honorius also renewed the same law[42] against them: and in two other laws[43] he ordered the Donatists in Afric to be put to death if they held any public conventicles to the prejudice of the Catholic faith, revoking all tolerations that had been granted them before. But as these laws were very rare, so they may be supposed to be made upon some particular provocation of their enormities, such as the Manichees were guilty of; or their barbarous outrages committed against the Catholics, such as

[41] Cod. Theod. l. 16. tit. 5. de Hæreticis, leg. 9. (t. 6. p. 124.) Cæterum quos Encratitas prodigiali appellatione cognominant, cum Saccoforis sive Hydroparastatis..... Summo supplicio et inexplicabili pœna jubemus affligi.

[42] Ibid. leg. 35. (p. 153.) Noxios Manichæos, execrabilesque eorum conventus, dudum justa animadversione damnatos, etiam speciali præceptione cohiberi decernimus. Quapropter quæsiti adducantur in publicum, ac detestati criminosi congrua et severissima emendatione resecentur.

[43] Ibid. leg. 51. (p. 170.) Oraculo penitus remoto, quo ad ritus suos hæreticæ superstitiones obrepserant, sciant omnes sanctæ legis inimici plectendos se pœna proscriptionis et sanguinis, si ultra convenire per publicum execranda sceleris sui temeritate temptaverint. An. 410.—Conf. leg. 56. (p. 180.) Sciant cuncti, qui, &c.

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the Circumcellions among the Donatists every where stand charged with.

Then again, it was as rare to find these laws at any time put in execution against them. For we scarce find an instance before Priscillian of any heretic suffering death barely for his opinion. Sozomen[44], speaking of this law of Theodosius, says it was made more for terror than execution. And Chrysostom[45] at the same time delivered his opinion freely, 'that the tares were not thus to be rooted out: for if heretics were to be put to death, there would be nothing but eternal war in the world. Christ does not prohibit us to restrain heretics, to stop their mouths, to cut off their liberty, and their meetings, and their conspiracies, but only to kill and slay them.' St. Austin seems not to have known any thing of this law of Theodosius; and for those of Honorius, they were not yet enacted against the Donatists when he wrote against them. Therefore writing frequently to the African magistrates, he tells them the law gave them no power to put any Donatist to death. Thus in his letter to Dulcitius, the tribune[46], 'You,' says he, 'have not received the power of the sword against them by any laws, neither by any imperial injunctions, which you are obliged to execute, are you commanded to put them to death.' So he tells Petilian[47], the Donatist bishop, 'that God had so ordered the matter in his providence, having the hearts of kings in his hand, that though the emperor had made many laws to admonish and correct them, yet there was no imperial law which commanded them to be put to death. The judges indeed had power to punish malefactors with death, as murderers, and the

[44] L. 7. c. 12. (v. 2. p. 293. 34.) ... Καὶ χαλεπὰς τοῖς νόμοις ἐπέγραφε τιμωρίας· ἀλλ' οὐκ ἐπεξῄει· οὐ γὰρ τιμωρεῖσθαι, ἀλλ' εἰς δέος καθιστῶν τοὺς ὑπηκόους ἐσπούδαζεν.

[45] Hom. 47. [Bened. 46. al. 47.] in Matth. p. 422. (t. 7. p. 482, b, c.) Τί οὖν δεσπότης; κωλύει, λέγων, Μή ποτε ἐκριζώσητε ἅμα αὐτοῖς τὸν σῖτον. Τοῦτο δὲ ἔλεγε, κωλύων πολέμους γίνεσθαι καὶ αἵματα καὶ σφαγάς· οὐ γὰρ δεῖ ἀναιρεῖν αἱρετικόν· ἐπεὶ [δ] πόλεμος ἄσπονδος εἰς τὴν οἰκουμένην ἔμελλεν εἰσάγεσθαι. . . . . Οὐ τοίνυν κατέχειν αἱρετικοὺς καὶ ἐπιστομίζειν, καὶ ἐκκόπτειν αὐτῶν τὴν παρρησίαν, καὶ τὰς συνόδους, καὶ τὰς σπονδὰς διαλύειν κωλύει· ἀλλ' ἀναιρεῖν καὶ κατασφάττειν.

[46] Ep. 61. [al. 204.] ad Dulcitium, (t. 2. p. 765 d.) Non enim tu in eos jus gladii ullis legibus accepisti, aut imperialibus constitutis, quorum tibi injuncta est exsecutio, hoc præceptum est, ut necentur.

[47] Cont. Lit. Petilian. l. 2. c. 86. (t. 9. p. 271 e.) . . . . Multas ad vos commonendos et corripiendos leges ipse constituit: nulla tamen lex regia vos jussit occidi, &c.

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like; and so perhaps some of the Donatists might suffer; but that was not for their opinion barely. And even in that case, when it was the cause of the Church, the Catholic bishops commonly interceded for them, that the death of their martyrs might not be revenged with blood.' 'For no good men in the Catholic Church,' says St. Austin [48], 'are pleased to have any one, although he be an heretic, prosecuted unto death.' Therefore writing to one Donatus [49], a proconsul in Afric, he tells him, 'they desired that the terror of judges and laws might correct them, so as to preserve them from the punishment of eternal judgment, but not kill them; that discipline might not be neglected toward them, and yet that they might not undergo the punishment which they really deserved. Therefore punish their crimes in such manner, as that the authors may continue in being to repent of them. We beseech you, when any cause of the Church comes before you, although you know the Church to be assaulted and afflicted by their injurious villanies, yet then forget that you have the power of killing, and do not forget our petition. Let it not seem vile and contemptible in your eyes that we, who pray to God to correct them, intercede with you not to kill them. Let your prudence also consider this, that no one besides ecclesiastics is concerned to bring ecclesiastical causes before you: so that if you should resolve to put such criminals to death, who are accused of acting wickedly against the Church, you will deter us from bringing

[48] Cont. Crescon. l. 3. c. 50. (t. 9. p. 463 d.) Nullis tamen bonis in Catholica hoc placet, si usque ad mortem in quenquam, licet hæreticum, sæviatur.

[49] Ep. 127. [al. 100.] (t. 2. p. 270 b.) Unde ex occasione terribilium judicum ac legum ne in æterni judicii pœnas incidant, corrigi eos cupimus, non necari; nec disciplinam circa eos negligi volumus, nec suppliciis, quibus digni sunt, exerceri. Sic igitur eorum peccata compesce, ut sint, quos pœniteat peccasse. Quæsumus igitur, ut cum ecclesiæ causas audis, quamlibet nefariis injuriis appetitam vel afflictam esse cognoveris, potestatem occidendi te habere obliviscaris, et petitionem nostram non obliviscaris. Non tibi vile sit, neque contemptibile, fili honorabiliter dilectissime, quod vos rogamus ne occidantur, pro quibus Dominum rogamus, ut corrigantur. Excepto etiam, quod a perpetuo proposito recedere non debemus vincendi in bono malum: illud quoque prudentia tua cogitet, quod causas ecclesiasticas insinuare vobis nemo præter ecclesiasticos curat. Proinde si occidendos in his sceleribus homines putaveritis, deterrebitis nos, ne per operam nostram ad vestrum judicium aliquid tale perveniat: quo comperto illi in nostram perniciem licentiore audacia grassabuntur, necessitate nobis impacta et indicta, ut etiam occidi ab eis eligamus, quam eos occidendos vestris judiciis ingeramus.

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any more such actions before your tribunal: and that will make them more licentious and daringly bold to assault us, and work our ruin, when they know we are under such a necessity to choose rather to be slain by them than bring them to be slain before your tribunals.' He pleads after the same manner in another Letter to Marcellinus [50], the tribune, in behalf of some Donatists who confessed themselves guilty of murdering some of the Catholic clergy. 'I beseech you,' says he, 'let their punishment be short of death, though their crimes be so great, both for our conscience' sake, and to commend the lenity and meekness of the Catholic Church.' A little after he intreats [51] him to intercede in his name to the proconsul for them. 'I hear it is in the power of the judge to mollify the rigour of the law in giving sentence, and to use greater mildness in punishing than the laws command. But if he will not at my request consent to this, let him however grant me this favour, to keep them in prison till I can send to the emperor, and obtain of his clemency that the passions or martyrdoms of the servants of God, which ought to be glorious in the Church, be not stained and defiled with the blood of their enemies.' He urges the same argument in his next Letter to this Marcellinus [52] with greater earnestness, conjuring him by all that is sacred not to proceed to the utmost extremity against some Circumcellions and Donatist clergy, who were

[50] Ep. 158. [al. 139.] (t. 2. p. 419 f.) Pœna sane illorum, quamvis de tantis sceleribus confessorum, rogo te ut præter supplicium mortis sit, et propter conscientiam nostram, et propter Catholicam mansuetudinem commendandam.

[51] Ibid. (p. 420 e.) Solet audire in potestate esse judicis mollire sententiam, et mitius vindicare, quam jubeant leges. Si autem hoc literis meis ad hoc consenserit, hoc saltem præstet, ut in custodiam recipiantur atque hoc de clementia imperatorum impetrare curabimus, ne passiones servorum Dei, quæ debent esse in ecclesia gloriosæ, inimicorum sanguine dehonestentur.

[52] Ep. 159. [al. 133.] (ibid. p. 396 b.) Unde mihi solicitudo maxima incussa est, ne forte sublimitas tua censeat eos tanta legum severitate plectendos, ut qualia fecerunt, talia patiantur. Ideoque his literis obtestor fidem tuam, quam habes in Christo, per ipsius Domini Christi misericordiam, ut hoc nec facias, nec fieri omnino permittas. Quamvis enim ab eorum interitu dissimulare possemus, qui non accusantibus nostris, sed illorum notoria, ad quos tuendæ publicæ pacis vigilantia pertinebat, præsentati videantur examini; nolumus tamen passiones servorum Dei, quasi vice talionis, paribus suppliciis vindicari. Non quo scelestis hominibus licentiam facinorum prohibeamus auferri; sed hoc magis sufficere volumus; ut vivi et nulla corporis parte truncati, vel ab inquietudine insana ad sanitatis otium legum coërcitione dirigantur, vel a malignis operibus alicui utili operi deputentur.

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convicted of murdering two of his presbyters belonging to the Church of Hippo, after having first barbarously struck out an eye and cut off the finger of one of them. 'I am under the greatest concern imaginable,' says he, 'lest your highness should decree their punishment by the utmost severity of the law, to make them suffer the same things that they have done. Therefore I beseech you in these letters by the faith which you have in Christ, by the mercy of the Lord Jesus, that you neither do this, nor suffer it to be done. For though we might excuse ourselves from their death, forasmuch as it was not by any accusation of ours, but by the information of those who have the care of preserving the public peace, that they were brought in question; yet we would not have the passions of the servants of God be revenged with the like punishments, as it were by way of retaliation. Not that we are against depriving wicked men of the liberty of committing such villainous actions, but because we rather think it sufficient, without either killing them or maiming them in any part of their body, to bring them by coercion of the laws, from these mad and turbulent practices, to live peaceably and soberly, or at least instead of these wicked works, to engage them in some useful employment.' He yet again more pathetically urges the same matter to one Apringius [53], another African judge, in these very affectionate and moving terms, pleading for mercy toward the same Circumcellions. 'I am afraid lest they who have committed this murder should be sentenced to death by your power. That this may not be done, I that am a Christian beseech you the judge, I that am a bishop exhort you that are a Christian. I know the Apostle says, Ye bear not the sword in vain, but are ministers of God to execute wrath upon them that do evil. But the cause of the State is one thing, and the cause of the

[53] Ep. 160. [al. 134.] (t. 2. p. 398 a.) Hæc [scil. horrenda facinora in fratres] cum comperissem illos fuisse confessos, ideoque minime dubitarem sub jura tuæ securis esse venturos, has ad tuam nobilitatem literas acceleravi, quibus deprecor, et per misericordiam Christi obsecro, sic de tua majore atque certiore felicitate gaudeamus, ut eis paria non retribuantur; quanquam lapidis ictibus digitum præcidere oculumque convellere leges puniendo non possint, quod ista sæviendo potuerunt. Unde securus sum de iis, qui hoc se fecisse confessi sunt, quod hanc vicissitudinem non reportabunt: sed ne vel ipsi, vel illi, quorum homicidium patefactum est, per tuæ potestatis sententiam mulctentur, hoc timeo; hoc ne fiat, et Christianus judicem rogo, et Chris-

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Church another. The administration of that (the State) is to be carried on by terror, but the meekness of the Church is to be commended by her clemency.' Then using several arguments, he adds a little after, 'If nothing short of death could be imposed upon them, for our part we had rather they should be set at liberty, than that the passions of our brethren should be revenged by shedding the blood of their enemies. But now since there is room both to show the gentleness of the Church, and also to restrain the audaciousness of the cruel, why should you not incline to the more provident side and milder sentence, which judges have liberty to do even in causes where the Church is not concerned? Therefore stand in awe with us of the judgment of God the Father, and demonstrate the clemency of the Church your mother. For what you do, the Church does for whose sake you do it, and whose you are that do it. Therefore contend and vie in goodness with the evil. They by monstrous inhumanity and wickedness tear off the members from the living body: do you in mercy cause their members, which were exercised in such barbarous works, to remain whole and untouched in them, that they may hence-

tianum episcopus moneo. De vobis quidem dixisse Apostolum legimus, quod non sine causa gladium geratis, et ministri Dei sitis, vindices in eos, qui male agunt. Sed alia causa est provinciæ, alia est ecclesiæ. Illius terribiliter gerenda est administratio, hujus clementer commendanda est mansuetudo. Si apud judicem non Christianum mihi sermo esset, aliter agerem: nec tamen etiam sic ecclesiæ causam desererem; et quantum admittere dignaretur, instarem, ne passiones servorum Dei Catholicorum, quæ prodesse debent ad exempla patientiæ, inimicorum suorum sanguine fœdarentur; et si nollet acquiescere, inimico animo eum resistere suspicarer. Nunc vero, quando apud te res agitur, alia mihi ratio est, alia consultatio. Rectorem te quidem præcelsæ potestatis videmus, sed etiam filium Christianæ pietatis agnoscimus. Subdatur sublimitas tua, subdatur fides tua, causam tecum tracto communem: sed tu in ea potes, quod ego non possum. Confer nobiscum consilium, et porrige auxilium. Diligenter actum est, ut inimici ecclesiæ, qui solent vaniloquio seductionis solicitare animos imperitos, tanquam de persecutione gloriantes, quam se perpeti jactant, horrenda facinora sua in Catholicos clericos perpetrata faterentur, et suis verbis implicarentur. Legenda sunt Gesta ad sanandas animas, quas pestifera suasione venenaverunt. Numquid placet tibi, ut ad finem Gestorum, si cruentum istorum supplicium continebit, legendo pervenire timeamus, ubi ponimus et ipsam conscientiam, ne malum pro malo, qui passi sunt, reddidisse videantur? Si ergo nihil aliud constitueretur frenandæ malitiæ perditorum, extrema fortasse necessitas, ut tales occiderentur, urgeret: quanquam, quod ad nos attinet, si nihil mitius eis fieri posset, mallemus eos liberos relaxari, quam passiones fratrum nostrorum fuso eorum sanguine vindicari: nunc vero, cum aliquid fieri potest, quo et mitis commendetur

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forth serve to work at some useful labour. They spared not the servants of God preaching reformation to them; but do you spare them that have been apprehended in their crimes, spare them that have been presented to your examination, spare them that have been convicted before you. They with the sword of unrighteousness shed Christian blood: do you withhold even the lawful sword of judgment from being imbrued in their blood. They slew the minister of the Church, and thereby deprived him of the time of living: do you let the enemies of the Church live, and thereby grant them a time of repenting. Thus it becomes a Christian judge to act in the cause of the Church, at our request, at our admonition, at our intercession. Other men are wont to appeal from the mildness of the sentence, when their enemies are too favourably dealt with upon conviction: but we so love our enemies, that if we did not presume upon your Christian obedience, we should appeal from the severity of your sentence.'

After this manner St. Austin always pleads for favour to be shown to the Donatists, that they should not be prosecuted unto blood, in the cause of the Church, though it were for a capital crime, which in a civil case would infallibly have been punished with death without redemption. And certainly they, who were so tender of their enemies' lives, when they were guilty of such flagrant crimes of violent outrages against the Church, could never think it lawful to sentence them to death for mere error in opinion. And therefore, though Honorius

ecclesia, et immitium cohibeatur audacia; cur non flectas in partem providentiorem lenioremque sententiam, quod licet judicibus facere, etiam non in causis ecclesiæ? Time ergo nobiscum judicium Dei Patris, et commenda mansuetudinem matris. Cum enim tu facis, ecclesia facit, propter quam facis, et cujus filius facis. Contende bonitate cum malis. Illi scelere immani membra de corpore vivo avulserunt; tu opere misericordi effice, ut illa, quæ nefandis operibus exercebant, alicui utili operi integra eorum membra deserviant. Illi non pepercerunt correctionem sibi prædicantibus Dei servis: tu parce comprehensis, parce ductis, parce convictis. Illi impio ferro fuderunt sanguinem Christianum: tu ab eorum sanguine etiam juridicum gladium cohibe propter Christum. Illi ministro ecclesiæ occiso extorserunt spatium vivendi: tu inimicis ecclesiæ viventibus relaxa spatium pœnitendi. Talem te oportet esse in causa ecclesiæ judicem Christianum, petentibus, monentibus, intercedentibus nobis. Solent homines, quando cum inimicis eorum convictis lenius agitur, a mitiore sententia provocare. Sed inimicos nostros ita diligimus, ut, nisi de tua Christiana obedientia præsumamus, a tua severa sententia provocemus.

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made some such laws, after St. Austin had written all this, yet we never find the Church approved them, or desired they should be put in execution: but, on the contrary, always stood firm to her own character, which we have heard before in the words of St. Austin; that is, that no good men in the Catholic Church were pleased with having heretics prosecuted unto death. Lesser punishments, they thought, might have their use, as means sometimes to bring them to consideration and repentance; but to take away their lives was to deprive them at once of all means and opportunity of repenting. Besides that, it was invidious to the Church, and rather a confirmation to heresy: for such as were slain were always reckoned martyrs by their party. Thus the Donatists honoured their Circumcellions, which were slain in the encounter with Macarius, whom the Emperor Constans sent into Afric in a peaceable manner to scatter his gifts among them, and try to reduce them to unity by his kindness: they were the aggressors, and forced him to require aid of the governors to defend himself against their assaults; and yet those, that were slain in such necessary defence, were by them reputed martyrs, and the Catholics were nicknamed *Macarians*, and these called *the Macarian days*, that is, in their language, days of persecution. And in answer to this, Optatus[54] was forced to tell them, first, 'that

[54] L. 3. p. 62. (p. 59.) Ab operariis [nempe, administris] unitatis multa quidem aspere gesta sunt, sed ea ad quid imputatis Lentio, Macario, vel Taurino? Imputate majoribus vestris; qui, sicut in Propheta scriptum est, ut vobis stupescerent dentes, ipsi uvas acidas comederunt. Illis primo, qui populum Dei diviserunt, et basilicas fecerunt non necessarias. Deinde Donato Carthaginis, qui provocavit, ut unitas proximo tempore fieri tentaretur. Tertio Donato Bagaiensi, qui insanam collegerat multitudinem, a qua ne Macarius violentiam pateretur, qui ad se, et ad ea, quæ ferebat tutanda, armati militis postulavit auxilium. Venerunt tunc cum pharetris armigeri, repleta est unaquæque civitas vociferantium: nuntiata unitate, fugiatis omnes. Nulli dictum est, *Nega Deum*. Nulli dictum est, *Incende Testamentum*. Nulli dictum est, *Aut thus pone, aut basilicas dirue*. Istæ enim res solent martyria generare. Renuntiata est unitas, sola fuerant hortamenta, ut Deus et Christus ejus, a populo in unum conveniente, pariter rogaretur. Nullus erat primitus terror. Nemo viderat virgam: nemo custodiam: sola fuerant hortamenta. Timuistis omnes, fugistis, trepidastis: ut pro certo de vobis dictum sit, quod in Psalmo scriptum est, *Trepidaverunt, ubi non erat timor*. Fugerunt igitur omnes episcopi cum clericis suis, aliqui sunt mortui. Qui fortiores fuerunt, capti longe relegati sunt. Et tamen horum omnium nihil actum est cum voto nostro: nihil cum consilio, nihil cum conscientia, nihil cum opere. Sed gesta sunt omnia in dolore Dei, amare plorantis, &c.

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the fact was false: no violence was used toward them: there was no terror in the first design; they neither felt rod nor imprisonment; but only exhortations to peace.' And, secondly, 'if any violence was offered to them, they called it upon themselves by their own insolency, obliging the emperor's officer or almoner to defend himself against the rude insults of the Circumcellions. Meanwhile, whatever happened was neither done by the desire, nor the counsel, nor the knowledge, nor the concurrence of the Church.' A like instance happened in the case of the Priscillianists. Priscillian and some of his accomplices were, by Maximus the Emperor, at the instigation of Ithacius, a fierce and sanguinary bishop, sentenced unto death. This gave occasion to the followers of Priscillian to triumph in the sufferings of their leader. For, as Sulpicius Severus[54] observes, 'his death was so far from suppressing the heresy, that it gave confirmation to it, and made it spread further than otherwise it would have done: for his followers, who before honoured him as a saint, afterwards began to reverence him as a martyr.' The thing was utterly displeasing to all good men, who were interested and attached to the Ithacian party: St. Martin, bishop of Tours, not only rebuked Ithacius for his over-zealous prosecution[55], but interceded with Maximus the Emperor to abstain from shedding their blood; telling him, it was enough to expel heretics from their churches, after they were once condemned by the episcopal judgment: and he obtained a promise of Maximus, not to decree any thing against their lives. From which when he departed by the persuasion of others, and condemned them to death, St. Martin would never after be induced to communicate with those sanguinary men, save once in a small matter, of which he also repented, and continued his aversion to them all his days, as the same historian[56] informs us.

Now from all this it is plain, that whatever favour or assist-

[54] Hist. Sacr. l. 2. p. 120. (p. 453.) .... Prisciliano occiso, non solum non repressa est hæresis, quæ illo auctore proruperat, sed confirmata, latius propagata est. Namque sectatores ejus, qui eum prius ut sanctum honoraverant, postea ut martyrem colere cœperunt.

[55] Ibid. p. 119. (p. 449.).... Non desinebat increpare Ithacium, ut ab accusatione desisteret: Maximum orare, et sanguine infelicium abstineret: satis superque sufficere, ut episcopali sententia hæretici judicati ecclesiis pellerentur, &c.

[56] Dialog. 3. c. 15. (pp. 575, seqq.) Veniam ad illud, &c.

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ance the ancient Church required of the civil magistrates, to back her discipline with, against heretics or other delinquents, she never desired them to unsheath the sword in her cause, or punish them with death; but always interposed in their behalf, that they might have the favour to live and repent, if ever any sanguinary laws, which were very rare, and noways encouraged or approved by the Church, were made against them. The discipline of fire and fagot, and inquisitions, and a thousand other tortures, which, under pretence of mercy, has spilt so much Christian blood, are inventions of later ages and more corrupt and degenerate times, when men had forgot the spirit of Christianity, and the character of our Blessed Lord, who "came not to destroy men's lives, but to save them."

The discipline of the Church deprived no man of his natural or civil rights; much less the magistrate of his power, or allegiance due to him.

5. It was no part of the ancient discipline to deprive men of their natural or civil rights. A master did not lose his natural authority over his family, nor a parent over his children, by losing the privileges of Christian communion. A judge did not lose his office or charge in the state, by being cast out of the Church: for many such enjoyed their power and jurisdiction under Constantius and other heretical princes, notwithstanding the Church's censure; though now it is the common doctrine of the Romish Church, as Cardinal Tolet[57] delivers it for the instruction of priests, that 'an excommunicated person cannot exercise any act of jurisdiction without sin; nay, and if his excommunication be made public, all his sentences are null and of no effect.' This rule is designed against sovereign powers, to weaken the hands of princes by displacing their officers under pretence of excommunication. But the Church of Rome goes further, and puts it in the power of the Pope to lay princes under the highest excommunication or anathema, and then by

[57] Summa Casuum, s. Instruct. Sacerdot. l. 1. c. 13. n. 5. (p. 35) ... Excommunicatus non potest exercere actum jurisdictionis absque peccato: immo, si publica est excommunicatio facta, sententiæ nullæ sunt. Hinc est eum nec excommunicare, nec conferre beneficia, nec eligere, nec præsentare, nec alia posse, quæ ad jurisdictionem pertinent, et, si facit, actus est nullus.—See Du Moulin's Buckler of Faith. (p. 370.) But that which in this matter is most pernicious is the common rule that an excommunicated person is suspended of his charge, and cannot exercise any act of jurisdiction, and that all the sentences which an excommunicated judge pronounceth are of no force. By this rule the Pope pretendeth that he hath power to depose kings, &c.—Conf. Decretal. Gregor. l. 2. tit. 27. de Sententia et Re Judic. c. 24. (Corp. Jur. Canon. t. 2. p. 902. 23.) Vos autem interim agnoscatis, &c.

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virtue of that to depose them from their thrones, and absolve subjects from their allegiance, and dispose of their kingdoms to whom they think fit. Of which practice there is not the least footstep in all the discipline of the primitive Church for many ages, nor scarce any unquestionable instance of such an attempt before the time of Pope Hildebrand, or Gregory the Seventh, (from whom this doctrine is called *the Hildebrandine doctrine,*) as some of their own historians ingenuously confess. 'I have read over and over again,' says Otho [or Otto] Frisingensis[58], a noble German bishop, 'the records of the Roman kings and emperors, and I nowhere find that any of them before this was excommunicated, or deprived of his kingdom by the bishop of Rome; unless any one think fit to call that anathematizing, when Philip, the Emperor, was placed among the penitents for a little time by the Roman bishop; or when Theodosius, for his cruel slaughter of the Thessalonians, was debarred from entering the church by St. Ambrose.'

There is no question but that princes anciently were sometimes denied the communion, as St. Ambrose denied Theodosius: but as that was not properly putting them under the great excommunication, or anathema, so much less was it depriving them of their legal power and dominion. Constantius was an heretic, and Julian an apostate; Valens and Valentinian the Younger were professed Arians; Anastasius and many others, abettors and propugners of several heresies; yet the Church never pretended to withdraw her allegiance from them, or depose them. Neither was this for want of power, as Bellarmin and others commonly pretend, but for want of just authority and right: for the Church in those days knew nothing either of a direct or indirect power, that the Pope or any other bishop had over the temporal rights of princes; but professed obedience to them, whether they were heathens or heretics, in the Church or out of the Church, persecutors or friends; as the reader, that pleases, may see more fully demonstrated in

[58] L. 6. c. 35. (p. 127.) Lego et relego Romanorum regum et imperatorum gesta, et nusquam invenio quenquam eorum ante hunc [Henricum IV.] a Romano pontifice excommunicatum, vel regno privatum, nisi quis forte pro anathemate habendum ducat, quod Philippus ad breve tempus a Romano episcopo inter pœnitentes collocatus, et Theodosius a Beato Ambrosio propter cruentam cædem a liminibus ecclesiæ sequestratus sit.

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the elaborate work of our learned Bishop Buckeridge[59], in defence of Barclay against Bellarmin, concerning the pretended power of the Pope in temporals, and his usurpation of a right to dethrone princes. Where, among many other unanswerable arguments, he confirms the forementioned observation of Otho [or Otto] Frisingensis, that Hildebrand was the first that put this wicked doctrine in practice against the Emperor Henry the Fourth, from the concurrent testimony of almost twenty writers of the Roman communion.

I shall pursue this matter no further here, having said what is sufficient to confirm this remark about the discipline of the Church, that it deprived no man of his natural or civil rights, much less gave any one authority to dethrone princes, or absolve subjects from their allegiance, or dispose of their kingdoms, under pretence of setting up the spiritual sword above the temporal.

But consisted, first, in admonition of the offender.

6. But the discipline of the Church, being a mere spiritual power, was confined to these following acts. First, the admonition of the offender; which was solemnly repeated once or twice commonly, before they proceeded to greater severities, according to that of the Apostle, "A man that is an heretic, after the first and second admonition reject." [Tit. 3, 10.] After this manner St. Ambrose[60] represents their proceedings: 'A putrefied member of the body is never cut off but with grief: we try a long time whether it cannot be healed with medicines; if not, then a good physician cuts it off. Such is the affection of a good bishop: he is very desirous first to heal the infirm, to put a stop to growing ulcers, to burn and sear a little, and not cut off; at last he cuts off with grief what cannot be healed.' So Prosper[61] says: 'They that being long endured,

[59] Al. Johannes Roffensis, *De Potestate Papæ in Rebus Temporalibus, sive in Regibus Deponendis usurpata, adversus Cardinalem Bellarminum.* Lond. 1614. l. 2. c. 10. (pp. 385, seqq.) Tit. *Henricus IV. primus a Gregorio VII. depositus est, idque injuste juxta sententiam Othonis Frisingensis.*

[60] De Offic. l. 2. c. 27. (t. 2. p. 102 c, n. 135.) Cum dolore amputatur etiam quæ putruit pars corporis, et diu tractatur si potest sanari medicamentis: si non potest, tunc a medico bono abscinditur. Sic episcopi affectus boni est, ut oportet [al. optet] sanare infirmos, serpentia auferre ulcera, adurere aliqua, non abscindere: postremo, quod sanari non potest, cum dolore abscindere.

[61] De Vit. Contemplat. l. 2. c. 7. (append. p. 30. c. 9.) . . . . . Qui, diu portati et salubriter objurgati, corrigi

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and often kindly admonished, will not be corrected, are cut off as putrefied members with the sword of excommunication.' And thus Synesius[62] represents his own proceedings against Andronicus, the tyrannical governor of Ptolemais, who made use of his power only to oppress and vex the people. He first tried whether admonitions and remonstrances against his cruelty would work upon him: but when they proved ineffectual, and the man grew more outrageous and incorrigible, breaking out into that blasphemous expression, 'that in vain did any man hope for succour from the Church, and that no man should escape his hands, although he laid hold of the foot of Christ himself:' after this, says Synesius[63], 'he was no longer to be admonished, but cut off as an incurable member, for fear the sound parts should be corrupted by his society and contagion;' and so he proceeded to pronounce that formal excommunication against him, which we shall hear more of by and by, [in the eighth section of this chapter.]

Secondly, In suspension from the communion called *the lesser excommunication.*

7. Some call this the *προθεσμία, the warning*[64], or *time given them to repent*, which was limited sometimes[65] to the space of ten days: after which, if they continued obstinate and refractory, the Church proceeded to greater severities, to deny them communion by the lesser or greater excommunication.

The lesser excommunication was commonly called *ἀφορισμὸς, separation* or *suspension;* and it consisted in excluding men

noluerint, tanquam putres corporis partes debent ferro excommunicationis abscindi.

[62] Ep. 57. (pp. 191, seqq.) See the passage generally.

[63] Ep. 58. p. 199. (p. 202 d. 7.) ..... *Οὐκέτι νουθετέος ὁ ἄνθρωπος, ἀλλ', ὅσπερ μέλος ἀνιάτως ἔχον, ἀποκοπτέος, ἵνα μὴ τῇ κοινωνίᾳ καὶ τὸ ὑγιαῖνον συμφθείρηται.*

[64] Vid. Habert. Archierat. ex Ep. Johan. Antioch. ad Nestor. (ad Censur. Pontif. observ. 2. p. 739.) Tempus illud *προθεσμία* dicitur. Conquerebatur ergo Nestorius angustum esse ad deliberandum tempus: at Johannes Antiochenus Epistola ad Nestorium apposite reponit: *Καὶ γὰρ εἰ καὶ προθεσμίαν στενωτάτην τοῖς γράμμασιν ἐνέθηκε ὁ κύριός μου, ὁ θεοφιλέστατος Κελεστῖνος ὁ ἐπίσκοπος, δέκα μόναις ἡμέραις περιορίσας τὴν ἀπόκρισιν· ἀλλ' ἔξεστιν ἔργον αὐτὸ ποιῆσαι καὶ ἡμέρας μόνης μιᾶς, τάχα δὲ καὶ ὡρῶν ὀλίγων.* [Vid. C. Ephes. part. 1. c. 25. n. 3. CC. t. 3. p. 390 c. Ed.]

[65] Vid. Celestin. Ep. ad Nestor. (CC. t. 3. p. 362 e.) *Φανερῶς τοίνυν ἴσθι, ταύτην ἡμῶν εἶναι τὴν ἀπόφασιν, ὡς ἐὰν μὴ περὶ τοῦ Χριστοῦ τοῦ Θεοῦ ἡμῶν ταῦτα κηρύξῃς, ἅπερ καὶ ἡ Ῥωμαίων, καὶ ἡ Ἀλεξανδρέων, καὶ πᾶσα ἡ Καθολικὴ ἐκκλησία κατέχει, ὡς καὶ ἡ ἁγία ἡ κατὰ τὴν μεγάλην Κωνσταντινούπολιν ἐκκλησία ἕως σου κάλλιστα κατέσχε· καὶ ταύτην τὴν ἄπιστον καινότητα, ἥτις ἐπιχειρεῖ χωρίζειν, ἅπερ συνάπτει ἡ ἁγία Γραφή, ἐντὸς δεκάτης ἡμέρας, ἀριθμουμένης ἀπὸ τῆς ἡμέρας ταύτης τῆς ὑπομνήσεως, φανερᾷ καὶ ἐγγράφῳ ὁμολογίᾳ ἀθετήσῃς, ἀπὸ πάσης κοινωνίας Καθολικῆς ἐκβέβλησαι.*

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from the participation of the eucharist, and prayers of the faithful; but did not expel them the church, for still they might stay to hear the psalmody, and reading of the Scriptures, and the sermon, and the prayers of the catechumens and the penitents, and then depart with them, when that first service, called the service of the catechumens, was ended. Theodoret[66] expressly distinguishes this lesser excommunication from the greater, when speaking of some, who had lapsed into sin rather by infirmity than maliciousness, 'he says, they should be debarred from partaking of the holy mysteries, but not debarred from the prayers or service of the catechumens.' And thus we are to understand that canon of Gregory Thaumaturgus[67], which orders 'such to be *excommunicated from prayers* as detained the goods of their brethren, (which they had lost in the invasion of the barbarians,) under pretence of having found them.' *Prayers* there means the prayers of the faithful at the altar, or the communion-service, from which they were suspended, and not the prayers of the catechumens, at which they might be present, notwithstanding their suspension from the other. So that this was a lower degree of punishment, excluding them in part only from the society of the faithful; that is, from the common prayers and the eucharist, but not totally expelling them the Church. And it was commonly inflicted for lesser crimes; or if for greater, upon such sinners only as showed immediately a ready disposition to submit to the laws of repentance: there being something in their forwardness to entitle them to a more favourable sentence.

The Council of Eliberis[68] orders this sort of abstention from the eucharist for three weeks to be inflicted on those, who,

[66] Ep. 77. ad Eulalium, t. 3. p. 947. (t. 4. part. 2. p. 1130.) .... Κωλυέσθωσαν μὲν τῆς μεταλήψεως τῶν ἱερῶν μυστηρίων, μὴ κωλυέσθωσαν δὲ τῆς τῶν κατηχουμένων εὐχῆς, μηδὲ τῆς τῶν θείων Γραφῶν ἀκροάσεως, μηδὲ τῆς τῶν διδασκάλων παραινέσεως.

[67] Ep. Canonic. c. 5. ap. Oper. p. 40 a. (CC. t. 1. p. 840 d.) Ἄλλοι δὲ ἑαυτοὺς ἐξαπατῶσιν, ἀντὶ τῶν ἰδίων τῶν ἀπολλυμένων, ἃ εὗρον ἀλλότρια κατέχοντες, ... οὓς δεῖ ἐκκηρύξαι τῶν εὐχῶν.—Conf. C. Ilerdens. c. 4. (t. 4. p. 1611 e.) De his, qui se incesta pollutione commaculant, placuit, ut, quousque in ipso detestando et illicito carnis contubernio perseverant, usque ad missam tantum catechumenorum in ecclesia admittantur.

[68] C. 21. (t. 1. p. 973 b.) Si quis in civitate positus, tres Dominicas ad ecclesiam non accesserit, tanto [al. pauco] tempore abstineat, ut correptus esse videatur.

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without any necessary avocation, neglected to come to church for three Lord's-days together. And in another canon[69] suspends such women for a year as were guilty of ante-nuptial fornication; ordering them to be received again without public penance, provided they were married to the persons by whom they were defiled, living chastely with them for the future. Albaspiny[70] here rightly observes, that this was only depriving them of the eucharist, for they were neither expelled the church, nor obliged to go through any of the stages of public penance, but might pray with the catechumens, and with the faithful also; only they were not allowed to participate of the holy mysteries till their term was expired, and therein their punishment consisted. St. Basil's Canons[71] speak of the same punishment for trigamists, or persons that were married a third time. They were to be under penance for five years; half the time to be hearers only, and half the time co-standers: that is, they might stay to hear the prayers of the faithful, but not partake of the communion with them. So that here were two degrees of this lesser excommunication; the one excluding them only from the eucharist, but allowing them to pray with the faithful; and the other excluding them from the prayers of the faithful, and only allowing them to pray with

[69] C. 14. (ibid. p. 972 c.) Virgines, quæ virginitatem suam non custodierint, si eosdem, qui eas violaverint, duxerint et tenuerint [maritos], eo quod solas nuptias violaverint, post annum sine pœnitentia reconciliari debebunt.

[70] In loc. (ibid. 992 e.) *Sine pœnitentia.* Non hoc ita accipiendum, quasi velint eas absque sacramento pœnitentiæ absolvendas esse, aut statuant ejusmodi peccatum non esse aliqua pœna coërcendum, vel denique eis non esse dolendum de stupro: sed *pœnitentia* hoc loco intelliguntur pœnæ et ærumnæ, quæ in gradibus pœnitentiæ palam et publice caperentur, quæ, cum pudorem aliquem sugillarent, non erant ejusmodi virginibus infligendæ. Quid autem sit, *post annum sine pœnitentia reconciliari*, quodve genus pœnarum ex hoc canone, et ex vigesimo primo colligitur? Levia quædam crimina hac pœna mulctabantur, quæ in eo versaretur, ut ab eucharistia arcerentur, ... mihique persuasum est, eos qui levi illa animadversione castigabantur, non aliter orasse aut stetisse in ecclesia, neque aliter habitos, quam subsistentes, et omnibus rebus divinis et humanis participasse cum cæteris fidelibus, præterquam eucharistiæ.

[71] C. 4. [Oper. Basil. Ep. 188. s. Canonic. Prim.] (CC. t. 2. p. 1721 c.) *Συνήθειαν δὲ κατελάβομεν, ἐπὶ τῶν τριγάμων πενταετίας ἀφορισμόν. ... Δεῖ δὲ μὴ πάντη αὐτοὺς ἀπείργειν τῆς ἐκκλησίας· ἀλλ' ἀκροάσεως αὐτοὺς ἀξιοῦν ἐν δύο που ἔτεσιν ἢ τρισί· καὶ μετὰ ταῦτα ἐπιτρέπειν συστήκειν μὲν, τῆς δὲ κοινωνίας τοῦ ἁγιασθῆναι ἀπέχεσθαι, καὶ οὕτως ἐπιδειξαμένους καρπόν τινα μετανοίας ἀποκαθιστῆν τῷ τόπῳ τῆς κοινωνίας.*

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the catechumens; but neither of them expelling such delinquents totally from the communion of the Church.

8. The greater excommunication was, when men were totally expelled the Church, and separated from all communion in holy offices with her. Whence in the ancient canons it is distinguished by the names of *παντελὴς ἀφορισμὸς, the total separation*, and *anathema, the curse:* it being the greatest curse that could be laid upon man. It is frequently also signified by the several terms and phrases of, *ἀπείργεσθαι τῆς ἐκκλησίας, ἀποκλείεσθαι* and *ῥίπτεσθαι τῆς ἐκκλησίας, ἐκτὸς εἶναι, ἐκκερύττεσθαι τῆς συνόδου, ἀπεῖρξαι τῆς ἀκροάσεως*, and the like. All which denote men's being wholly cast out of the Church by the most formal excommunication, and debarred not only from the eucharist, but from the prayers, and hearing the Scriptures in any assembly of the Church. This form is elegantly expressed by Synesius[72] with all the appendages and consequents of it, in his excommunication of Andronicus, mentioned before, [at the end of the sixth section preceding,] in these words: 'Now that the man is no longer to be admonished, but cut off as an incurable member, the Church of Ptolemais makes this declaration or injunction to all her sister Churches throughout the world. Let no church of God be open to Andronicus and his accomplices; to Thoas and his accomplices; but let every sacred temple and sanctuary be shut against them. The Devil has no part in Paradise; though he privily creep in, he is driven out again. I therefore admonish both private men and magistrates neither to receive them under their roof, nor to their table; and priests more especially, that they neither converse with them living, nor attend their funerals when dead. And if any one despise this Church, as being only a small city,

Thirdly, In expulsion from the Church, called the greater excommunication, total separation, *anathema*, and the like.

[72] Vid. Synes. Ep. 58. p. 199. (p. 203 a. 5.) Ἀνδρονίκῳ, καὶ τοῖς αὐτοῦ, ... μηδὲν ἀνοιγνύσθω τέμενος τοῦ Θεοῦ· ἅπας αὐτοῖς ἱερὸς ἀποκεκλείσθω, καὶ σηκὸς καὶ περίβολος. Οὐκ ἔστι τῷ Διαβόλῳ μέρος ἐν Παραδείσῳ· ὃς, κἂν λάθῃ διαδὺς, ἐξελαύνεται. Παραινῶ μὲν οὖν καὶ ἰδιώτῃ παντὶ καὶ ἄρχοντι, μήτε ὁμορόφιον αὐτῷ, μήτε ὁμοτράπεζον γίνεσθαι· ἱερεῦσι δὲ διαφερόντως, οἱ μήτε ζῶντας αὐτοὺς προσεροῦσι, μήτε τελευτήσαντας συμπροπέμψουσιν. Εἰ δέ τις ὡς μικροπολίτην ἀποσκυβαλίσει τὴν ἐκκλησίαν, καὶ δέξεται τοὺς ἀποκηρύκτους αὐτῆς, ὡς οὐκ ἀνάγκη τῇ πένητι πείθεσθαι· ἴστω σχίσας τὴν ἐκκλησίαν, ἣν μίαν ὁ Χριστὸς εἶναι βούλεται. Ὁ δὲ τοιοῦτος, εἴτε Λευίτης ἐστὶν, εἴτε πρεσβύτερος, εἴτε ἐπίσκοπος, ἀπαρ' ἡμῖν ἐν Ἀνδρονίκου μοίρᾳ τετάξεται, καὶ οὔτε ἐμβαλοῦμεν αὐτῷ δεξιὰν, οὔτε ἀπὸ τῆς αὐτῆς ποτε σιτησόμεθα· πολλοῦ δὴ δεήσομεν κοινωνῆσαι τῆς ἀπορρήτου τελετῆς τοῖς ἐθελήσασιν ἔχειν μερίδα μετὰ Ἀνδρονίκου καὶ Θόαντος.

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and receive those that are excommunicated by her, as if there was no necessity of observing the rules of a poor Church, let them know that they divide the Church by schism, which Christ would have to be one. And whoever does so, whether he be Levite, presbyter, or bishop, shall be ranked in the same class with Andronicus: we will neither give them the right hand of fellowship, nor eat at the same table with them; and much less will we communicate in the sacred mysteries with them, who choose to have part with Andronicus and Thoas.'

I have recited this whole form, not only because it is curiously drawn up by an excellent pen, but also because it opens the way into the further knowledge of the discipline of the Church. For here we may observe four things as concomitants, or immediate consequents of this greater excommunication. 1. That casting out of the Church is represented under the image of casting out of Paradise, and paralleled with it in the form of excommunication. 2. That as soon as any one was struck out of the list of his own Church notice was given thereof to the neighbouring Churches, and sometimes to the Churches over all the world, that all Churches might confirm and ratify this act of discipline, by refusing to admit such an one to their communion. 3. Forasmuch as that he, who was legally excommunicated in one Church, was by the laws of Catholic unity, and rules of right discipline, to be held excommunicate in all Churches, till he had given just and reasonable satisfaction: and for any Church to receive such an one into her communion was so great an offence as to be thought to deserve the same punishment with the offending criminal. 4. That when men were thus excommunicated, they were not only excluded from communion in sacred things, but shunned and avoided in civil conversation as dangerous and infected persons. All these things are evident from this single passage of Synesius; but because the knowledge of the manner of exercising ecclesiastical discipline depends upon the truth of them, it will not be amiss a little more distinctly to explain and confirm them.

First then, I observe, that casting out of the Church is here represented under the image of Paradise, and paralleled with it in the form of excommunication. And so it is said by St.

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Jerom[71], 'that sinners transgress the covenant of God in the Church as Adam did in Paradise: and show themselves followers of their first father, that they may be cast out of the Church, as he was out of Paradise.' In like manner St. Austin[72], speaking of Adam's expulsion out of Paradise, says, 'it was a sort of excommunication: as now in our Paradise, that is, the Church, men by ecclesiastical discipline are removed from the visible sacraments of the altar.' And Epiphanius[73] notes the same custom, as more nicely observed by the sect of the Adamians: for 'if any one was taken in a crime, they would not suffer him to come into their assembly, but called him *Adam*, the eater of the forbidden fruit, and adjudged him to be expelled, as out of Paradise, that is, their Church.' So that this was a common form or phrase both in the discipline of heretics and of the Church.

This sort of excommunication was commonly notified to all other Churches.

9. Secondly, I observe, that as soon as any one was in this manner excommunicated by any Church, notice thereof was commonly given to other Churches, and sometimes by circular letters to all eminent Churches over all the world, that all Churches might confirm and ratify this act of discipline, by refusing to admit such an one to their communion. To this purpose we find a canon in the first Council of Toledo[74], 'that if any powerful man oppress and spoil a clerk, or a poor man, or one of a religious life, and a bishop summon him before him to have a trial, and he refuses to obey the summons; in that case he shall give notice by letter to all the bishops of the province, and to as many as possibly he can, that such an one

[71] In Hos. c. 6. (t. 6. p. 65 c.) Prævaricati sunt enim pactum Dei in ecclesia, sicut Adam prævaricatus est in Paradiso: et imitatores se antiqui parentis ostendunt, ut quomodo ille de Paradiso, sic et isti ejiciantur de ecclesia.

[72] De Gen. ad Lit. l. 11. c. 40. t. 3. p. 273. (t. 3. part. 1. p. 294 f.) ∴ Alienandus inde utique erat, tanquam excommunicatus. Sicut etiam in hoc Paradiso, id est, ecclesia, solent a sacramentis altaris visibilibus homines disciplina ecclesiastica removeri.

[73] Hær. 52. Adamian. n. 2. (t. 1. p. 459 c.) *Εἰ δὲ δόξειε, τινὰ, ὡς καὶ τοῦτο λέγουσιν, ἐν παραπτώματι γενέσθαι, οὐκέτι τοῦτον συνάγουσι. Φάσκουσι γὰρ αὐτὸν τὸν Ἀδὰμ τὸν βεβρωκότα ἀπὸ τοῦ ξύλου, καὶ κρίνουσιν ἐξεῶσθαι, ὡς ἀπὸ τοῦ Παραδείσου τουτέστι τῆς αὐτῶν ἐκκλησίας.*

[74] C. 11. (t. 2. p. 1225 b.) Si quis de potentibus clericum, aut quemlibet pauperem, [al. pauperiorem,] aut religiosum expoliaverit, et mandaverit eum ad se venire episcopus ut audiatur, et is [al. ad ipsum episcopus ut eum audiat, et si] contempserit, invicem mox scripta percurrant per omnes provinciæ episcopos, et quoscunque adire potuerint, ut excommunicatus habeatur ipse, donec obediat et reddat aliena.

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be held excommunicate, till he obediently submits, and makes restitution.' This was usually most punctually observed in the case of heretics and their condemnation. For so the historians[75] tell us, when Alexander, bishop of Alexandria, had deposed and anathematized Arius, he sent his circular letters to all Churches, giving an account of his proceedings against him. And this was the constant practice in all Councils, to send about their synodical letters, to signify what heretics they condemned, that all Churches might be apprised of their errors, and refuse their communion to the authors of them. And thus every bishop was careful to inform his brethren and neighbouring Churches whenever he had occasion to use this severe punishment against any offender. Thus St. Austin having deposed Victorinus, an aged subdeacon, and expelled him the Church, because he was found hypocritically in private to have propagated the abominable heresies of the Manichees, writes to Deuterius[76], one of his fellow bishops, and tells him, 'he did not think it sufficient to have used this congruous ecclesiastical severity against him, unless he also gave intimation of what he had done against him, that every one being well apprised might know how to be aware of him.'

After which he that was excommunicated in one Church was held excommunicate in all Churches.

10. Then, thirdly, whoever was thus excommunicated in one Church was held excommunicate in all Churches. For such was the perfect harmony and agreement of the Catholic Church, that every Church was ready to ratify and confirm all acts of discipline exercised upon delinquents in any other Church: so that he who was legally excommunicated in one Church, was by the laws of Catholic unity and rules of right discipline held excommunicate in all Churches; and no Church could or would receive him into communion, before he had given satisfaction to the Church whereof he was a member:

[75] Socrat. l. 1. c. 6. (v. 2. p. 10. 17.) *Συνέδριον πολλῶν ἐπισκόπων καθίσας, τὸν μὲν Ἄρειον καὶ τοὺς ἀποδεχομένους τὴν δόξαν αὐτοῦ καθαιρεῖ· γράφει δὲ τοῖς κατὰ πόλιν τοιάδε, κ. τ. λ.*—Theodoret. l. 1. c. 4. (v. 3. p. 9. 13.) ... *Περὶ ὧν ἀναγκαῖον ἦν μοι τῷ πάσχοντι δηλῶσαι τῇ ὑμετέρᾳ εὐλαβείᾳ, κ. τ. λ.*

[76] Ep. 74. [al. 236.] (t. 2. p. 849 c.) Rogavit me quidam, posteaquam se Manichæorum auditorem esse confessus est, ut eum in viam veritatis doctrinæ Catholicæ revocarem. Sed, fateor, ejus fictionem sub clerici specie vehementer exhorrui, eumque coercitum pellendum de civitate curavi. Nec mihi hoc satis fuit, nisi et tuæ sanctitati eum meis literis intimarem, ut, a clericorum gradu congrue ecclesiastica severitate dejectus, cavendus omnibus innotescat.

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and to do otherwise, was to incur the same penalty that was inflicted upon the offending party. I have given some evidence of this before[77], in speaking of the unity of the Church: and here I shall a little further confirm it, to show the exactness of the ancient Church in the administration of discipline, both from her laws and practice. Her laws are altogether uniform upon this point, and run universally in this tenour, that no person excommunicated in one Church, should be received in another, except it were by the authority of a legal synod, to which there lay a just appeal, and which was allowed to judge in the case.

There are two canons among those called Apostolical to this purpose. 'If any presbyter[78] or deacon is suspended from communion by his bishop, he shall not be received by any other but the bishop that suspended him, except in case the bishop chance to die that suspended him.' And again[79], 'If any clergyman or layman, who is cast out of the Church, be received in another city without commendatory letters, both he that received him, and he that is so received, shall be cast out of communion.' The Council of Nice is supposed to refer to these ancient canons, when[80] it says, 'The rule shall stand good according to the canon, which says, he that is cast out by one bishop shall not be received by another: but synods shall be held twice a year to examine whether any one person was excommunicated unjustly by the hasty passion, or contention,

[77] Ch. 1. s. 11. p. 44.

[78] C. 32. [al. 33. et juxt. Labb. 31.] (Cotel. [c. 25.] v. 1. p. 441.) *Εἴ τις πρεσβύτερος, ἢ διάκονος ὑπὸ ἐπισκόπου γένηται ἐν ἀφορισμῷ, τοῦτον μὴ ἐξεῖναι παρ' ἑτέρου δεχθῆναι, ἀλλ' ἢ παρὰ τοῦ ἀφορίσαντος αὐτὸν, εἰ μὴ ἂν κατὰ συγκυρίαν τελευτήσῃ ὁ ἀφορίσας αὐτὸν ἐπίσκοπος.*

[79] C. 13. [juxt. Labb. 28.] (Cotel. [c. 10.] ibid. p. 438.) *Εἴ τις κληρικὸς, ἢ λαϊκὸς, ἀφωρισμένος, ἤτοι ἄδεκτος, ἀπελθὼν ἐν ἑτέρᾳ πόλει δεχθῇ ἄνευ γραμμάτων συστατικῶν, ἀφοριζέσθωσαν οἱ δεξάμενοι καὶ ὁ δεχθείς.*

[80] C. 5. (t. 2. p. 237 d.) *Περὶ τῶν ἀκοινωνήτων γινομένων, εἴτε τῶν ἐν τῷ κλήρῳ, εἴτε τῶν ἐν τῷ λαϊκῷ τάγματι, ὑπὸ τῶν καθ' ἑκάστην ἐπαρχίαν ἐπισκόπων, κρατείτω ἡ γνώμη κατὰ τὸν κανόνα, τοὺς ὑφ' ἑτέρων ἀποβληθέντας ὑφ' ἑτέρων μὴ προσίεσθαι· ἐξεταζέσθω δὲ, μὴ μικροψυχίᾳ, ἢ φιλονεικίᾳ, ἤ τινι τοιαύτῃ ἀηδίᾳ τοῦ ἐπισκόπου ἀποσυνάγωγοι γεγένηνται· Ἵνα οὖν τοῦτο τὴν πρέπουσαν ἐξέτασιν λαμβάνῃ, καλῶς ἔχειν ἔδοξεν, ἑκάστου ἐνιαυτοῦ καθ' ἑκάστην ἐπαρχίαν δὶς τοῦ ἔτους συνόδους γίνεσθαι· ἵνα κοινῇ πάντων τῶν ἐπισκόπων τῆς ἐπαρχίας ἐπὶ τὸ αὐτὸ συναγομένων, τὰ τοιαῦτα ζητήματα ἐξετάζοιτο· καὶ οὕτως οἱ ὁμολογουμένως προσκεκρουκότες τῷ ἐπισκόπῳ κατὰ λόγον ἀκοινώνητοι παρὰ πάντων εἶναι δόκωσι, μέχρις ἂν τῷ κοινῷ ἢ τῷ ἐπισκόπῳ δόξῃ, τὴν φιλανθρωποτέραν περὶ αὐτῶν ἐκθέσθαι ψῆφον.*

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or any such irregular commotion of his bishop; and if it appear that he was excommunicated with reason, he shall be held excommunicate by all other bishops, till the synod thinks fit to show him favour.' The Council of Antioch[81] not long after renewed this canon: 'If any one is excommunicated by his own bishop, he shall not be received by any other but the bishop that excommunicated him, unless upon appeal to the synod he give satisfaction, and receive another sentence from the synod.' The learned reader may find many other canons to the same purpose in the Councils of Eliberis[82], and Sardica[83], and Milevis[84], and the first of Arles[85], and Turin[86], and Saragossa[87], which all run in the same tenour, and need not here be repeated. It was by this rule and principle that Cornelius refused to admit Felicissimus to communion at Rome[88], because

[81] C. 6. (ibid. p. 564 d.) Εἴ τις ὑπὸ τοῦ ἰδίου ἐπισκόπου ἀκοινώνητος γέγονεν, μὴ πρότερον αὐτὸν παρ' ἑτέρων δεχθῆναι, εἰ μὴ ὑπ' αὐτοῦ παραδεχθείη τοῦ ἰδίου ἐπισκόπου, ἢ συνόδου γενομένης ἀπαντήσας ἀπολογήσεται, πείσας τε τὴν σύνοδον καταδέξοιτο ἑτέραν ἀπόφασιν.

[82] C. 53. (t. 1. p. 976 c.) Placuit cunctis, ut ab eo episcopo quis accipiat communionem, a quo abstentus in crimine aliquo fuerit. Quod si alius episcopus præsumpserit eum admittere, illo adhuc minime faciente, vel consentiente, a quo fuerat communione privatus, sciat se hujusmodi causas inter fratres cum status sui periculo præstaturum.

[83] C. 13. (t. 2. p. 637 d.) Καὶ τοῦτο πᾶσιν ἀρεσάτω, ἵνα εἴ τις διάκονος, ἢ πρεσβύτερος, ἢ καί τις τῶν κληρικῶν ἀκοινώνητος γένηται, καὶ πρὸς ἕτερον ἐπίσκοπον τὸν εἰδότα αὐτὸν καταφύγοι, γινώσκοντα ἀποκεκινῆσθαι αὐτὸν τῆς κοινωνίας παρὰ τοῦ ἰδίου ἐπισκόπου, μὴ χρῆναι τῷ ἐπισκόπῳ καὶ ἀδελφῷ αὐτοῦ ὕβριν ποιοῦντα παρέχειν αὐτῷ κοινωνίαν· εἰ δὲ τολμήσοι τις τοῦτο ποιῆσαι, γινωσκέτω συνελθόντων ἐπισκόπων ἀπολογίᾳ ἑαυτὸν ὑπεύθυνον καθιστάναι.

[84] C. 18. (ibid. p. 1542 a.) Placuit, ut, quicunque non communicat in provincia propria, et in aliis provinciis vel transmarinis partibus ad communicandum obrepserit, jacturam communionis vel clericatus excipiat.

[85] C. 16. (t. 1. p. 1428 e.) De his, qui pro delicto suo a communione separantur, placuit, ut, in quibuscunque locis fuerint exclusi, eodem loco communionem consequantur.

[86] C. 4. (t. 2. p. 1156 e.) De Palladio laico, qui Spano presbytero non leve crimen intenderat, inter quos episcopus Triferius ejusdem criminis causas se cognovisse testatus est, id Concilii decrevit auctoritas, ut idem Palladius in eadem sententia maneret, qua cognitionis tempore a Triferio fuerat sacerdote mulctatus, in hoc ei humanitate reservata Concilii, ut ipse Triferius in potestate habeat, quando voluerit, ei relaxare.

[87] C. 5. (ibid. p. 1010 b.) Item lectum est, ut hi, qui per disciplinam, aut sententiam episcopi ab ecclesia fuerint separati, ab aliis episcopis non sint recipiendi.

[88] Vid. Cyprian. Ep. 55. [al. 59.] ad Cornel. p. 126. (p. 259.) Legi literas tuas, frater carissime, quas per Saturnum fratrem nostrum Acoluthum misisti, et dilectionis fraternæ, et ecclesiasticæ disciplinæ, et sacerdotalis censuræ satis plenas; quibus significasti, Felicissimum hostem Christi, non novum, sed jam pridem ob crimina sua plurima et gravissima abstentum, et non tantum

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he had been excommunicated by Cyprian at Carthage. And for the same reason Marcion, as had been noted before, could find no reception among the Roman clergy, because he was excommunicated by his own father, and had given no satisfaction to him, as Epiphanius[89] relates the story.

St. Austin likewise writing to one Quintian[90], who lay under the censure of his bishop, tells him, 'that if he came to him, not communicating with his own bishop, he could not be received to communion with him.' Nay, he had such a regard for this rule of discipline, that if a Donatist, that was under censure among his own bishops, pretended to come over to the Catholic Church[91], he would not receive him without first obliging him to do the same penance that he should have done had he stayed among them. And he greatly complains of the Donatist bishops, as 'dissolving all the bands of discipline, whilst they encouraged the greatest criminals, who were under discipline for their ill lives in the Church, to come over to them, where they might escape doing penance, under pretence of receiving a new baptism: and then, as if they were renewed and sanctified, though they were really made worse under pretence of new grace, they could insult the discipline of the Church, from which they fled, to the highest degree of sacrilegious madness.' He gives an instance in one, who, being used to beat his mother and threatening to kill her, was in danger of falling under the discipline of the Church for these his insolent and unnatural cruelties; to avoid this[92], 'he goes over to the Donatists, who without any more ado rebaptize him in his madness,

mea, sed plurimorum coëpiscoporum sententia condemnatum, rejectum a te illic esse: et cum venisset stipatus caterva et factione desperatorum, vigore pleno, quo episcopos agere oportet, pulsum de ecclesia esse, &c.

[89] Hær. 42. n. 1. See ch. 1. s. 11. p. 45. n. 89.

[90] Ep. 235. [al. 64.] (t. 2. p. 152 e.) ..... Si ad nos venires, venerabili episcopo Aurelio non communicans, nec apud nos posses communicare.

[91] Vid. Ep. 149. [al. 35.] ad Euseb. (t. 2. p. 67 b.) Etenim ego... istum modum servo, ut quisquis apud eos propter disciplinam degradatus ad Catholicam transire voluerit, in humiliatione pœnitentiæ recipiatur, quo et ipsi eum forsitan cogerent, si apud eos manere voluisset. Ab eis vero considera, quæso te, quam exsecrabiliter fiat, ut quos male viventes ecclesiastica disciplina corripimus, persuadeatur eis ut ad lavacrum alterum veniant... deinde quasi renovati et quasi sanctificati, disciplinæ, quam ferre non potuerunt, deteriores facti sub specie novæ gratiæ, sacrilegio novi furoris insultent.

[92] Ep. 168. ad Eund. [al. 34.] (ibid. p. 64 f.) Transit ad partem Donati, rebaptizatur furens, et in

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and put on him *the white garment*, or *albe* of baptism, whilst he was fuming and thirsting after his mother's blood. So this man, who was meditating murder against his own mother, was by this means advanced to an eminent and conspicuous place within the chancel, and set as a sanctified creature before the eyes of all, who could not look upon him but with sighing and mourning.' The truth is, this was a very scandalous practice in the Donatists, done purely to strengthen their party: and nothing has done more mischief to the Church, or more enervated the power of ecclesiastical discipline, than the receiving of scandalous sinners, who fly from justice and the censures of the Church into other communions, and their protecting and even caressing them as saints, who ought to have been punished as the greatest criminals.

Upon this account the Church went as far as possibly she could, in making severe laws to discourage this practice; inflicting the same penalty upon any one that received an excommunicate person into public or private communion, as the excommunicated person himself was liable to. Thus in the Council of Antioch one canon [93] says, 'If any bishop, presbyter, or deacon communicate with an excommunicated person, he himself shall be excommunicated, as one that confounds the order of the Church.' Another [94], 'If any bishop receives a presbyter or deacon, deposed for contumacy by his own bishop, he shall be censured by a synod, as one that dissolves the laws of the Church.' And a third canon [95] says, 'If any bishop

maternum sanguinem fremens albis vestibus candidatur. Constituitur intra cancellos eminens atque conspicuus, et omnium gementium oculis matricidii meditator tanquam renovatus opponitur.

[93] C. 2. (t. 2. p. 561 e.) Εἰ δὲ φανείη τις τῶν ἐπισκόπων, πρεσβυτέρων, ἢ διακόνων, ἤ τις τοῦ κανόνος, τοῖς ἀκοινωνήτοις κοινωνῶν, καὶ τοῦτον ἀκοινώνητον εἶναι, ὡς ἂν συγχέοντα τὸν κανόνα τῆς ἐκκλησίας.

[94] C. 3. (ibid. p. 564 b.) Εἰ δὲ καθαιρεθέντα διὰ ταύτην τὴν αἰτίαν [nempe διὰ τὸ ἐπιμένειν τῇ ἀταξίᾳ] δέχοιτο ἕτερος ἐπίσκοπος, κἀκεῖνον ἐπιτιμίας τυγχάνειν ὑπὸ κοινῆς συνόδου, ὡς παραλύοντα τοὺς θεσμοὺς τοὺς ἐκκλησιαστικούς.

[95] C. 4. (ibid. b.) Εἴ τις ἐπίσκοπος ὑπὸ συνόδου καθαιρεθεὶς, ἢ πρεσβύτερος, ἢ διάκονος ὑπὸ τοῦ ἰδίου ἐπισκόπου, τολμήσειέν τι πρᾶξαι τῆς λειτουργίας, εἴτε ὁ ἐπίσκοπος κατὰ τὴν προάγουσαν συνήθειαν, εἴ τε ὁ διάκονος· μηκέτι ἐξὸν εἶναι αὐτῷ, μηδ' ἐν ἑτέρᾳ συνόδῳ ἐλπίδα ἀποκαταστάσεως, μήτε ἀπολογίας χώραν ἔχειν· ἀλλὰ δὲ τοὺς κοινωνοῦντας αὐτῷ πάντας ἀποβάλλεσθαι τῆς ἐκκλησίας, καὶ μάλιστα εἰ μαθόντες τὴν ἀπόφασιν τὴν κατὰ τῶν προειρημένων ἐξενεχθεῖσαν τολμήσειαν αὐτοῖς κοινωνεῖν. —See also c. 1. (ibid. p. 561 a.) Πάντας, κ. τ. λ.

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deposed by a synod, or presbyter or deacon deposed by their own bishop, presume to officiate in any part of divine service; they shall not only be incapable of being restored, but all that communicate with them shall be cast out of the Church; especially if they do so, after they know that sentence was pronounced against them.' In like manner the first Council of Orange[96]: 'If any bishop presumes to communicate with one that is excommunicate, knowing him to be so, without his being reconciled to the bishop by whom he was excommunicated, he shall be treated as a guilty person.' The second Council of Carthage[97] says more expressly, 'That a bishop, presbyter, or deacon, who receives those into communion who were deservedly cast out of the Church for their crimes, shall be held guilty of the same crimes with them.' The fourth Council of Carthage[98] declares universally, 'Whoever he be, clergyman or layman, that communicates with an excommunicate person, shall himself be excommunicated.'

St. Basil's words are very remarkable to an offender whom he threatened to excommunicate[99]: 'Thou shalt be an *anathema* to all the people, and whoever receives thee shall be excommunicate in all Churches.' The like may be read in the Apostolical Canons[1], to which the ancient Councils so often refer as the standing rule of discipline: 'If any clergyman or

[96] C. 11. (t. 3. p. 1449 d.) Placuit in reatum venire episcopum, qui admonitus de excommunicatione cujusquam, sine reconciliatione ejus, qui [eum] excommunicavit, ei communicare præsumpserit.

[97] C. 7. (t. 2. p. 1161 b.) [Placuit] ut qui merito facinorum suorum ab ecclesia pulsi sunt, si ab aliquo episcopo, vel presbytero, vel clerico fuerint in communionem suscepti, etiam ipse pari cum eis crimine teneatur obnoxius.

[98] C. 73. (t. 2. p. 1205 e.) Qui communicaverit vel oraverit cum excommunicato, sive clericus, sive laicus, excommunicetur.

[99] C. 89. [Grischovius boldly asserts this allegation to be false, inasmuch as the Canons of Basil do not exceed 85, and complains that he had searched the whole in vain.

I have found the words in one of the appendices to Basil's Canons, viz. his Epistle to Gregory the Presbyter, entitled, *Ut separetur a Mulierecula cum qua habitat.* (CC. t. 2. p. 1765 e.) Ἀνάθεμα ἔσῃ παντὶ τῷ λαῷ, καὶ οἱ δεχόμενοί σε ἐκκήρυκτοι κατὰ πᾶσαν ἐκκλησίαν γενήσονται. Ed.]

[1] C. 13. See before, p. 91. n. 79.—Conf. Isidor. Pelusiot. l. 3. Ep. 259. (p. 361 a) Εἰ μὲν γὰρ παρὰ τοῦ δεῖνος δικαίως κατεψηφισμένῳ, πᾶσα ἐφεξῆς ᾖ ἡ ἐκκλησία ἄβατος, καὶ συνηγανάκτουν ἅπαντες τῷ ταύτην θεμένῳ τὴν ψῆφον, ἴσως ἂν ἐκεῖνος σωφρονισθεὶς ἐγνωσιμάχει· νῦν δὲ ἅμα κατέγνωσταί τις ὑπὸ τούτου, καὶ παρ' ἄλλου πολλάκις θεραπεύται, καὶ ἐκκλησία ἑτέρα ἀναπεπταμένη, καὶ δορυφορία, καὶ δῶρα, καὶ γίνεται τῷ ἐκβεβλημένῳ χρηματισμὸς, ἡ μετάστασις.

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layman, who is cast out of the Church, be received into another city without commendatory letters, both he that receives him and he that is so received shall be cast out of communion.' Which answers an objection that might be raised in the case, viz. What if a bishop knew not by any formal intimation that such or such a person was excommunicate, and so through ignorance received him? To this it is here answered, that this did not excuse him, because he ought by the rule of Catholic commerce to receive no stranger to communion, that did not bring commendatory letters, or testimonials, from his own bishop, that he was in the communion of the Church. If any travelled without these, he was to be suspected as an excommunicated person, and accordingly treated as one under censure. But what if a person was unjustly excommunicated by his own bishop? Might not another bishop do him justice, by relaxing his unlawful bonds, and admit him to communion? I answer, No: for in this case the Church provided another more proper remedy, that every man should have liberty to appeal from the sentence of his own bishop to a provincial synod, which was by the Canons of Nice [2], and others [3] ap-

[2] C. 5. See before, p. 91. n. 80.

[3] C. Antioch. c. 6. See n. 81. p. 92. —C. Sardic. c. 17. (t. 2. p. 461 a.) ....Ἤρεσεν, ἵνα εἴ τις ἐπίσκοπος βίαν ὑπομείνας ἀδίκως ἐκβληθῇ, ἢ διὰ τὴν ἐπιστήμην, ἢ διὰ τὴν ὁμολογίαν τῆς Καθολικῆς ἐκκλησίας, ἢ διὰ τὴν τῆς ἀληθείας ἐκδικίαν, καὶ φεύγων τὸν κίνδυνον, ἀθῷος καὶ καθωσιωμένος ὢν εἰς ἑτέραν ἔλθοι πόλιν, μὴ κωλυέσθω ἐκεῖ ἐπὶ τοσοῦτον διάγειν, ἕως ἂν ἐπανέλθῃ, ἢ τῆς ὕβρεως τῆς γεγενημένης αὐτῷ ἀπαλλαγὴν εὑρέσθαι δυνηθῇ.—C. Carth. 2. c. 8. (ibid. p. 1161 d.) Si quis presbyter a præposito suo excommunicatus vel correptus fuerit, debet utique apud vicinos episcopos conqueri, ut ab ipsis ejus causa possit audiri, ac per ipsos suo episcopo reconciliari.—C. 10. (ibid. p. 1162 b.) Si quis episcopus in reatum aliquem incurrerit, et fuerit ei nimia necessitas non posse plurimos congregare, ne in crimine remaneat, a duodecim episcopis audiatur et a sex presbyteris et a tribus diaconibus cum proprio suo episcopo.—C. Milevit. 2. c. 22. (ibid. p. 1542 e.) Placuit, ut presbyteri, diaconi, vel cæteri inferiores clerici, in causis, quas habuerint, si de judiciis episcoporum suorum questi fuerint, vicini episcopi eos audiant: et inter eos quidquid est finiant, adhibiti ab eis ex consensu episcoporum suorum.—C. Carth. 3. c. 8. (ibid. p. 1168 e.) Si autem presbyteri vel diaconi fuerint accusati, adjuncto sibi ex vicinis locis legitimo numero collegarum, id est, in presbyteri nomine quinque, in diaconi duobus; episcopi ipsorum causas discutiant, &c.—C. Vasens. c. 5. (t. 3. p. 1457 e.) Si quis episcopi sui sententiæ non acquiescit, recurrat ad synodum.—C. Venet. c. 9. (t. 4. p. 1056 a.) Si quis fortasse episcopi sui judicium cœperit habere suspectum, aut ipsi de proprietate aliqua adversus ipsum episcopum fuerit nata contentio, aliorum episcoporum audientiam, non sæcularium potestatum, debebit ambire.

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pointed to be held twice a year for this very purpose, that if any one was aggrieved by the censure of his own bishop, he might have his cause heard over again in a provincial synod; from which there lay no further appeal to any single bishop, no, not even to the bishop of Rome, who most pretended to it; but all such causes were to be heard and determined in the province where they arose, to obviate fraud and surreptitious communion, and put an end to all strife and contention, as has been shown more fully in the fourteenth section of the foregoing chapter, out of the debate between the bishops of Rome and the African Churches.

These were the rules then generally observed throughout the whole Catholic Church, with respect to the rejection of excommunicate persons from the communion of all Churches: and by these rules the unity of the Catholic Church was duly maintained, and discipline for the most part kept up in its true vigour and glory.

And avoided also in civil commerce and outward conversation and allowed no memorial after death.

11. But fourthly, Synesius in the forementioned form of excommunication, not only speaks of denying men communion in sacred things, but also in civil commerce and external conversation: no one was to receive excommunicated persons into their houses[4], nor eat at the same table with them: they were not to converse with them familiarly, whilst living; nor perform the funeral obsequies for them when dead, after the solemn rites and manners that were used toward other Christians. These directions were drawn up upon the model of those rules of the Apostles, which forbad Christians to give any countenance to notorious offenders, continuing impenitent, even in ordinary conversation. As that of St. Paul, (1 Cor. 5, 11.) "I have written unto you not to keep company, if any man that is called a brother be a fornicator, or covetous, or an idolater, or a railer, or a drunkard, or an extortioner; with such an one no not to eat." And again, (Rom. 16, 17.) "Mark them which cause divisions and offences contrary to the doctrine which ye have learned; and avoid them." And (2 Thess. 3, 14.) "If any man obey not our word by this epistle, note that man, and have no company with him, that he may be ashamed." And that of St. John, (2 Ep. 10 and 11.) "If

[4] [Conf. Sophocl. Œdip. Tyrann. 236. 241. Τὸν ἄνδρ' ἀπαυδῶ τοῦτον, κ. τ. λ.—It. Antigon. 26—30. Τὸν δ' ἀθλίως θανόντα, κ. τ. λ. Ed.]

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there come any unto you, and bring not this doctrine, receive him not into your house, neither bid him God speed: for he that biddeth him God speed is partaker of his evil deeds."

In conformity to these rules, and the reasons here assigned for the observation of them, the Ancients made strict laws to forbid all familiar intercourse with excommunicated persons in ordinary conversation, unless some absolute necessity, or some greater and more obliging moral consideration required them to do otherwise. The first Council of Toledo has four or five canons to this purpose. It will be sufficient to recite the first of them [4], which is in these words: 'If any layman is excommunicated, let no clerk or religious person come near him or his house. In like manner if a clergyman is excommunicated, let the clergy avoid him. And if any is found to converse or eat with him, let him also be excommunicated.' The second Council of Arles [5] orders a suspended bishop to be excluded not only from the conversation and table of the clergy, but of all the people likewise. And many other such canons occur in the Councils of Vannes [6], and the first of Tours [7], and the first of Orleans [8], excluding excommunicate persons from all enter-

[4] C. 15. (t. 2. p. 1225 e.) Si quis laicus abstinetur, ad hunc vel ad domum ejus clericorum vel religiosorum nullus accedat. Similiter et clericus, si abstinetur, a clericis devitetur. Si quis cum illo colloqui aut convivari fuerit deprehensus, etiam ipse abstineatur. [C. 7. (ibid. p. 1224 e.) Cum uxoribus autem ipsis, quæ peccaverint, nec cibum sumant, nisi forte ad timorem Dei, acta pœnitentia, revertantur.—C. 16. (ibid. p. 1225 e.) Devotam peccantem non recipiendam in ecclesiam, nisi peccare desierit, et desinens egerit aptam pœnitentiam decem annis, recipiat communionem. Prius autem quam in ecclesia admittatur ad orationem, ad nullum convivium Christianæ mulieris accedat. Quod si admissa fuerit, etiam hæc, quæ eam recepit, habeatur abstenta.—C. 18. (ibid. 1226 c.) Si qua vidua episcopi, sive presbyteri, aut diaconi, maritum acceperit, nullus clericus, nulla religiosa cum ea convivium sumat, nunquam communicet. *Grischov.*]

[5] C. 30. [al. 49.] (t. 4. p. 1016 e.) ... Hunc [suspensum episcopum] non solum a clericorum, sed etiam a totius populi colloquio atque convivio placuit excludi.

[6] C. 3. (ibid. p. 1055 c.) Pœnitentes quoque, qui susceptam publice pœnitentiam intermiserint, et ad prioris erroris consuetudinem revoluti, vitæ se sæculari conversationique reddiderint, non solum a communione Dominicorum sacramentorum, sed etiam a conviviis fidelium submovendos.—Conf. C. Herdens. c. 4. (ibid. p. 1611 e.) De his, qui se incesta pollutione commaculant, placuit, ut quousque in ipso detestando et illicito carnis contubernio perseverant, usque ad missam tantum catechumenorum in ecclesia admittantur: cum quibus etiam nec cibum sumere ullum Christianorum, sicut Apostolus jussit, oportet.

[7] C. 8. (ibid. p. 1052 a)... A convivio fidelium extraneus habeatur.

[8] C. 3. (ibid. p. 1405 c.) Pro contemptu ecclesiæ et prævaricatione fidei a communione et convivio Catholicorum .... extraneus habe-

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tainments of the faithful. The Apostolical Canons [9] forbid any one to communicate in prayer so much as in a private house with excommunicate persons under the same penalty of excommunication. And if they happened to die in professed rebellion and contempt of penance, then they were treated as all other contemners and despisers of holy ordinances were, by being denied the honour and benefit of Christian burial. No solemnity of psalmody or prayers was used at their funeral: nor were they ever to be mentioned among the faithful out of the diptychs, or holy books of the Church, according to custom in the prayers at the altar. This is evident, not only from what is said by Synesius, but from the whole tenour of ecclesiastical discipline; which excludes all that die in professed rebellion and contempt from the privilege of Christian burial, such as catechumens dying in wilful neglect of baptism, and those that laid violent hands upon themselves, and such like [10], as all dying in impenitency and a desperate condition. And it is further evident from that very exception, which we have observed before [11] to be made in favour of such humble penitents, as modestly submitted to the discipline of the Church, and were labouring earnestly to obtain a re-admission, but were snatched away by sudden death, before they could obtain the formality of an absolution: in this case, as I showed, the Canons [12] allowed their oblations to be received, and their funeral obsequies to be celebrated after the usual solemnity and manner of the Church: which exception supposes, that all the rest, who died refractory and impenitent, were wholly denied these privileges, as a just consequence of their censures. Not to mention now the custom of erasing the names of excom-

atur. — Conf. Carth. 4. c. 70. (t. 2. p. 1205 d.) Clericus hæreticorum et schismaticorum tam convivia quam sodalitates evitet æqualiter.

[9] C. 11. [al. 10.] (Cotel. [c. 8.] v. 1. p. 438.) Εἴ τις ἀκοινωνήτῳ, κἂν ἐν οἴκῳ, συνεύξηται, καὶ αὐτὸς ἀφοριζέσθω.

[10] Vid. C. Bracar. 1. c. 34. [al. Bracar. 2. c. 16.] (t. 5. p. 841 e.) Placuit, ut hi, qui sibi ipsis aut per ferrum, aut per venenum, aut per præcipitium, aut suspendium, vel quolibet modo violentam inferunt mortem, nulla pro illis in oblatione commemoratio fiat, neque cum psalmis ad sepulturam eorum cadavera deducantur.—Cf. c. 35. [al. Bracar. 2. c. 17.] (ibid. e.) Item placuit, ut catechumenis sine redemptione baptismi defunctis, simili modo, neque oblationis commemoratio, neque psallendi impendatur officium; nam et hoc per ignorantiam usurpatum est.

[11] Ch. 1. s. 7, preceding.

[12] Vid. C. Vasens. 2. c. 2. See before, ch. 1. s. 7. p. 36. n. 75.

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municate persons out of the diptychs, or sacred registers of the Church, which was the immediate effect of excommunication, and excluded them from all the privileges of any future memorial[13] or commemoration, till they were restored again. I will not stand now to dispute, whether this custom took its original from the practice of the Jewish synagogue; or whether our Saviour alluded to that practice as some learned men[14] think, when he said to his disciples, (Luke 6, 22.) "Blessed are ye, when they shall separate, *or excommunicate*, you out of the synagogue, and cast out, *or expunge*, your names out of the holy books." Certain it is, that, as this erasing or expunging the names of excommunicate persons out of the diptychs was used in the Christian Church, it always implied the denial of communion to them even after death: they could neither have a Christian burial, nor a Christian commemoration, among those that were departed in the true faith and unity of the Church; but were excluded, both living and dying, from all society both sacred and civil, as the immediate effect and consequence either of a voluntary and chosen, or a judicial and penal excommunication.

For to show that these were not mere empty and ineffective laws, we may often observe them in a remarkable manner put in practice. Irenæus[15] tells us from those who had it from the mouth of Polycarp, 'that when he once occasionally accompanied St. John into a bath at Ephesus, and they there found

[13] Vid. Evagr. l. 3. c. 24. [Non liquet. Vide l. 4. c. 38. (v. 3. p. 419. 17.) Ἀναγνωσθεισῶν πολλῶν ῥήσεων Θεοδώρου καὶ Θεοδωρίτου, δειχθέντος δὲ ὡς καὶ πάλαι Θεόδωρος κατεκέκριτο, καὶ ἐκ τῶν ἱερῶν ἀπηλείφει δέλτων, καὶ ὡς μετὰ θάνατον δέοι τοὺς αἱρετικοὺς κατακρίνεσθαι· Θεόδωρον μὴν ἀπάσαις τὸ δὴ λεγόμενον ἀναθεματίζουσι, κ. τ. λ. Ed.]

[14] Dodwell, Dissertat. v. in Cypr. n. 18. (Dissertat. p. 28.) Huc enim referenda existimo illa Salvatoris verba, Μακάριοι, κ. τ. λ. De *synagogæ* censuris hæc intellexisse Dominum constat e voce ἀφορίσωσι. Ita enim *excommunicationem* denotabant *Judæi Hellenistæ*, ita etiam *ecclesiastici*, nec ulla vox frequenitus occurrit in *canonibus*. [See Parkhurst's Lexicon to the New Test. for the word ἀποσυνάγωγος, which occurs Joh. 9, 22. 12, 42. 16, 2., descriptive as it is of the condition of one deprived both of civil and religious privileges. So Theophylact on Luk. 6, 22., explains ἀφορίσωσιν ὑμᾶς as equivalent to ἀποσυναγώγους ποιήσουσιν, saying, Τῶν συνεδρίων καὶ ἐνδόξων καὶ ὅλως τῆς αὐτῶν κοινωνίας ἀφορίσουσιν. Ed.]

[15] L. 3. c. 4. (p. 204. 4.) Εἰσὶν οἱ ἀκηκόότες αὐτοῦ, ὅτι Ἰωάννης ὁ τοῦ Κυρίου μαθητὴς ἐν τῇ Ἐφέσῳ πορευθεὶς λούσασθαι, καὶ ἰδὼν ἔσω Κήρινθον, ἐξήλατο τοῦ βαλανείου μὴ λουσάμενος, ἀλλ' ἐπειπὼν, Φύγωμεν, μὴ καὶ τὸ βαλανεῖον συμπέσῃ, ἔνδον ὄντος Κηρίνθου, τοῦ τῆς ἀληθείας ἐχθροῦ.

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Cerinthus the heretic, St. John immediately cried out to Polycarp, Let us fly hence, lest the bath should fall, in which Cerinthus the enemy of truth is.' Eusebius[16] and Theodoret[17] both mention the same story out of Irenæus; and Epiphanius[18] also relates it at large, only with this difference, that it was Ebion the heretic, to whom by the guidance of the Spirit he showed this aversion for a memorial and example to future ages. Whence Baronius[19] conjectures both those heretics might be present, and that the saying had equal relation to them both. Irenæus in the same place[20] adds this further concerning Polycarp, 'that happening once to meet Marcion the heretic, and Marcion asking him whether he did not know him? he replied, Yes, I know thee to be the first-born of Satan.' 'So cautious,' says Irenæus, 'were the Apostles and their disciples *not to communicate so much as in word,—μὴ μεχρὶ λόγου κοινωνεῖν,—with the perverters of truth*, according to that of St. Paul, (Tit. 3, 10 and 11.) "A man that is an heretic after the first and second admonition reject; knowing that such an one is subverted, and sinneth, being condemned of himself." In like manner St. Ambrose[21] observes of a certain Christian judge, in the time of Julian, 'that having condemned one of his brethren for demolishing an altar, no one would vouchsafe to associate with him, no one would speak to him or salute him.' And St. Basil[22] writing to Athanasius concerning a certain governor of

[16] L. 4. c. 14. (v. 1. p. 161. 19.) *Καὶ εἰσὶν οἱ ἀκηκοότες αὐτοῦ, ὅτι Ἰωάννης, κ. τ. λ.*

[17] Hæret. Fabul. l. 2. c. 3. (t. 4. part. 1. p. 330.) *Τοῦτον, ὥς φασιν, Ὁ Θεσπέσιος Ἰωάννης ὁ εὐαγγελιστὴς λουόμενον θεασάμενος, κ. τ. λ.*

[18] Hær. 30. Ebion. n. 24. (t. 1. p. 149 a.) *Σπεύσατε, ἀδελφοὶ, ἔφη, ἐξέλθωμεν ἐντεῦθεν, μὴ πέσῃ τὸ βαλανεῖον, καὶ ἀπολώμεθα μετὰ Ἐβιώνος, τοῦ ἔνδον ἐν τῷ βαλανείῳ, διὰ τὴν αὐτοῦ ἀσέβειαν.*

[19] An. 74. n. 9. (t. 1. p. 701 a.) Ne dicamus Epiphanium esse hallucinatum, haud inconveniens erit existimare, utrumque simul in balneis repertum esse: siquidem magna necessitudo, ex impietatis similitudine comparata, intercedebat inter eos, &c.—Conf. Suicer. Thesaur. Eccles. voce, *Αἱρετικός.* (t. 1. p. 128.) Quid si uterque, Ebion nimirum et Cerinthus, ut ejusdem fere impietatis professores, tum in balneum vel ex condicto, aut præter spem simul convenissent?

[20] [L. 3. c. 3. (p. 204. 9.) *Αὐτὸς δὲ ὁ Πολύκαρπος Μαρκίωνί ποτε εἰς ὄψιν αὐτῷ ἐλθόντι καὶ φήσαντι, Ἐπιγινώσκεις ἡμᾶς; ἀπεκρίθη, Ἐπιγινώσκω τὸν πρωτότοκον τοῦ Σατανᾶ· τοσαύτην οἱ Ἀπόστολοι καὶ οἱ μαθηταὶ αὐτῶν ἔσχον εὐλάβειαν, πρὸς τὸ μηδὲ μέχρι λόγου κοινωνεῖν τινὶ τῶν παραχαρασσάντων τὴν ἀλήθειαν, ὡς καὶ Παῦλος ἔφησεν, Αἱρετικὸν ἄνθρωπον, κ. τ. λ.* Grischov.]

[21] Ep. 29. [al. 40.] ad Theodos. (t. 2. p. 951 c. n. 17.) . . . . Nemo illum congressu, nemo illum unquam osculo dignum putavit.

[22] Ep. 47. [al. 61.] (t. 3. part. 1. p. 223 a.) . . *Ἀποτρόπαιον αὐτὸν πάν-*

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Libya, whom Athanasius had excommunicated for his immoralities, and according to custom had given notice of it to Basil, tells him, 'they would all avoid him, and have no communion with him in fire, or water, or house, that is, in the common ways of ordinary conversation.' A great many other instances of the like kind might be given, but I shall only add that of Monicha, St. Austin's mother, toward her son whilst he continued a Manichee. St. Austin himself[23] tells us that she so detested the blasphemies of his error, and had such an aversion to him upon the account of them, that she would not admit him to eat with her at the same table in her own house. This was according to the discipline then practised in the Church, to deny sinners not only communion in sacred things, but also in the civil commerce of ordinary conversation.

The grounds and reasons of this practice.

12. Now all this was done for very wise ends and reasons of Christian prudence and charity. First, to make sinners ashamed, and by that shame to bring them to repentance. This is the reason given by the Apostle, "Note that man, and have no company with him, that he may be ashamed." [2 Thess. 3, 14.] Next, to terrify others by their example. Both these reasons are assigned by the canon of the Council of Tours[24], which orders relapsing sinners to be excluded both from the communion of the Church and the entertainments of the faithful, that the shame and confusion arising from such treatment might bring them to compunction, and terrify others by their example.

A third reason was the fear of partaking in other men's sins. If by their society they seemed to show any countenance to them, it would be an hardening them in their iniquity, and involve such as contributed thereto in the same guilt with the

τες ἡγήσονται, μὴ πυρὸς, μὴ ὕδατος, μὴ σκέπης αὐτῷ κοινωνοῦντες.

[23] Confess. l. 3. c. 11. (t. 1. p. 95 d.).... Ut vivere me concederet, [al. me secum crederet] et habere secum eandem mensam in domo, quod nolle cœperat, aversans et detestans blasphemias erroris mei.—Vid. Serm. de Temp. 215. [al. Serm. 265. append.] (t. 5. append. p. 438 b.).... Quoscunque tales esse cognoveritis, durissime castigate: et, si emendare noluerint, nec ad colloquium, nec ad convivium vestrum eos venire permittite.

[24] C. 8. (t. 4. p. 1052 a.) Si quis post acceptam pœnitentiam, sicut canis ad vomitum suum, ita ad sæculares illecebras, derelicta quam professus est pœnitentia, fuerit reversus, a communione ecclesiæ, vel a convivio fidelium extraneus habeatur, quo facilius et ipse compunctionem per hanc confusionem accipiat, et alii ejus terreantur exemplo.

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criminals themselves. 'Therefore,' says St. Cyprian[25], 'we ought to withdraw from sinners, and even fly from them, lest, if a man join himself to those that walk disorderly and go in the paths of error and wickedness, he himself also be held in the guilt of the same crimes.' For this reason, writing to the people of Leon and Astorga in Spain, where two bishops, Basilides and Martial, had been deposed for lapsing into idolatry, who afterwards made an attempt to draw in the people to accept them again for their bishops, after others had regularly by the discipline of the Church been ordained in their room, he tells them[26], 'they should not flatter themselves as if they were free from partaking in sin, if they communicated with a sinful bishop and gave their consent to the unlawful and unjust establishment of him in his bishopric, since the divine judgment had threatened and said by the Prophet Hosea [9, 4] "Their sacrifices shall be unto them as the bread of mourners: all that eat thereof shall be polluted:" teaching and showing us that all men are bound over unto sin who are defiled with the sacrifice of a profane and unjust priest. Which we find also to be declared in the Book of Numbers, when Korah, Dathan, and Abiram assumed to themselves the power of offering sacrifice in opposition to Aaron the priest. There the Lord commanded the people by Moses to separate themselves from them, lest if they were joined with those wicked men they should be smitten in their wickedness. "Depart," says he, "from the tents of

[25] De Unit. Eccles. p. 119. (p. 85.) Recedendum est a delinquentibus, vel immo fugiendum, ne, dum quis male ambulantibus jungitur, et per itinera erroris et criminis graditur, pari crimine et ipse teneatur.

[26] Ep. 68. [al. 67.] ad Plebem Legionis et Asturicæ, p. 171. (p. 288.) Nec sibi plebs blandiatur, quasi immunis esse a contagio delicti possit, cum sacerdote peccatore communicans, et ad injustum atque illicitum præpositi sui episcopatum consensum suum commodans, quando per Osee prophetam comminetur et dicat censura Divina, *Sacrificia eorum tanquam panis luctus: omnes, qui manducant ea, contaminabuntur*: docens scilicet et ostendens omnes, omnino ad peccatum constringi, qui fuerint profani et injusti sacerdotis sacrificio contaminati. Quod item in Numeris manifestari invenimus, quando Chore, et Dathan, et Abiron contra Aaron sacerdotem sacrificandi sibi licentiam vindicaverunt. Illic quoque per Moysen præcepit Dominus, ut ab eis populus separetur, ne facinorosis conjunctus eodem facinore et ipse perstringatur: *Separamini*, inquit, *a tabernaculis hominum istorum durissimorum, et nolite tangere ea, quæ ad eos pertinent, ne simul pereatis in peccato eorum.*

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these hardened [wicked] men, and touch nothing of theirs, lest ye be consumed in all their sins." ' [Num. 16, 26.]

A fourth reason was, to avoid contagion and infection. For conversing with profane men is endangering a man's own virtue: "Evil communications corrupt good manners." [1 Cor. 15, 33.] An infected member often destroys the whole body. Therefore as vile and notorious sinners were for this reason cut off from the body of the Church: so for the same reason all men were afterwards to avoid their society, for fear the poison of their infamous conversation should infect their morals, and diffuse itself into their minds by any artful conveyance of cunning craftiness, or the natural influence of bad example. For wicked men "speak with their feet, and teach with their fingers," as the Wise Man elegantly words it: [Prov. 6, 13.] their actions, as well as their discourses, are of a malignant influence, and are apt to leave ill tinctures and impressions upon the minds of others, so that a man cannot ordinarily converse with them without danger of infection. 'Therefore,' says Cyprian[27], 'avoid such men, and drive away their pernicious communications both from your conversation and your ears, as the contagion of death. For thus it is written[28], "Hedge about thine ears with thorns, and hearken not to an evil tongue." And again, "Evil communications corrupt good manners." Our Lord teaches and admonishes us to withdraw from such, saying, "They are blind leaders of the blind: and if the blind lead the blind, they shall both fall into the ditch."'

But, fifthly, admitting some could converse with such without danger to themselves, they could not without manifest danger to others, who are weak and apt to be emboldened

[27] De Unit. Eccles. p. 115. (p. 83.) Vitate, quæso vos, ejusmodi homines, et a latere atque auribus vestris perniciosa colloquia, velut contagium mortis, arcete, sicut scriptum est, *Sepi aures tuas spinis, et noli audire linguam nequam.* Et iterum, *Corrumpunt ingenia bona confabulationes pessimæ.* Docet Dominus, et admonet a talibus recedendum. *Cæci sunt,* inquit, *duces cæcorum; cæcus autem cæcum ducens, simul in foveam cadent.* Aversandus est talis atque fugiendus, quisquis fuerit ab ecclesia separatus.

[28] [Referring to Ecclesiasticus, ch. 28. v. 24. *Look that thou hedge thy possession about with thorns, and bind up thy silver and gold.* Not much to the purpose: but the latter clause according to the Complutensian is thus,—*Καὶ τῷ στόματί σου ποίησον θυρώματα καὶ μοχλούς.* — The latter citation is well known. See 1 Cor. 15, 33. Ed.]

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to follow the example of the strong to their apparent ruin and destruction.

For these and the like reasons, whenever the Church cast any notorious offenders wholly out of her communion, she prohibited all others from conversing with them, both in kindness to the sinners and to the righteous, lest the one should be hardened in their impenitency, and the other corrupted by the spreading contagion and infection.

No donations or oblations allowed to be received from excommunicate persons.

13. It is further observable, that as an indication of the Church's abhorrence of excommunicate persons, she allowed no gifts or oblations to be received from them; because that might have been interpreted retaining them still in some measure in her communion, and involving herself in the guilt of filthy lucre. Therefore she never admitted any one to make oblations, but such as were in full communion with her, and might lawfully partake of the sacrifice of the altar; as I have had occasion to show more fully in another place[29]. Here I only note it again as a thing most remarkable, that she had such an aversion to any thing that appertained to them, that she would not so much as retain those gifts which any such persons had freely offered whilst they were in communion with her. This we learn from Tertullian, who[30], speaking of the expulsion of Valentinus and Marcion for their heresies at Rome, says, 'they were cast out once and again, and particularly Marcion with his two hundred sestertia, which he had brought into the Church.'

No one to marry with excommunicate heretics, or receive their

14. There are several other instances of their aversion to heretics in particular, when once the censures of the Church were passed upon them. The Council of Laodicea not only forbids[31] all men to frequent their cemeteries and meetings,

[29] B. 15. ch. 2. s. 3. v. 5. p. 241.

[30] De Præscript. c. 30. (p. 212 b.) Ubi tunc Marcion, Ponticus nauclerus, Stoicæ studiosus? Ubi Valentinus, Platonicæ sectator? Nam constat illos neque adeo olim fuisse, Antonini fere principatu, et in Catholicæ primo doctrinam credidisse apud ecclesiam Romanensem, sub episcopatu Eleutherii benedicti, donec ob inquietam semper eorum curiositatem, quam fratres quoque vitabant, semel et iterum ejecti, Marcion quidem cum ducentis sestertiis, quæ ecclesiæ intulerat, novissime in perpetuum discidium relegati, venena doctrinarum suarum disseminaverunt.

[31] C. 9. (t. 1. p. 1497 c.) *Περὶ τοῦ μὴ συγχωρεῖν εἰς τὰ κοιμητήρια, ἢ εἰς τὰ λεγόμενα μαρτύρια πάντων τῶν αἱρετικῶν, ἀπίεναι τοὺς τῆς ἐκκλησίας εὐχῆς ἢ θεραπείας ἕνεκα, κ. τ. λ.*—C. 33. (ibid. p. 1501 e.) *Ὅτι οὐ δεῖ αἱρετικοῖς ἢ σχισματικοῖς συνεύχεσθαι.*—C. 34. (ibid. e.) *Ὅτι οὐ δεῖ*

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eulogiæ, or read their books, but burn them.

held at the monuments of their pretended martyrs, or any where to pray with them; but also[32] to receive any presents under the name of *eulogiæ* from them; because this was in some sort to communicate with them; these *eulogiæ* or *sanctified loaves*, being one way of testifying men's communion one with another. The same Council[33] also forbids all members of the Church to enter into communion with heretics, by giving their sons or daughters in marriage to them; neither are they allowed to take the sons or daughters of heretics in marriage to themselves, unless[34] they promise to become Christians. Where we may observe also, that they did not allow heretics, after they had broken the faith and communion of the Church, absolutely speaking, so much as the name of Christians. Other laws strictly prohibit men to read the books of heretics, as imagining that the poison of their errors was in a great measure dispersed and conveyed by them. Socrates[35] has recorded a letter of Constantine the Great, wherein he orders the Arians to be branded and stigmatized with the name of Porphyrians, and their books to be burnt, and makes it death for any one to conceal them and save them from the flames. And there are two laws now exstant in the Theodosian Code, wherein the very same things are enjoined under very severe penalties. The first is a law[36] made by Arcadius and Hono-

πάντα Χριστιανὸν ἐγκαταλείπειν μάρτυρας Χριστοῦ, καὶ ἀπιέναι πρὸς τοὺς ψευδομάρτυρας, τοῦτ' ἔστιν, αἱρετικῶν, ἢ αὐτοὺς πρὸς τοὺς προειρημένους αἱρετικοὺς γενομένους· οὗτοι γὰρ ἀλλότριοι τοῦ Θεοῦ τυγχάνουσιν.

[32] Ibid. c. 32. (e.) *Ὅτι οὐ δεῖ αἱρετικῶν εὐλογίας λαμβάνειν, αἵ τινές εἰσιν ἀλογίαι μᾶλλον ἢ εὐλογίαι.*

[33] C. 10. (ibid. 1497 d.) *Περὶ τοῦ, μὴ δεῖν τοὺς τῆς ἐκκλησίας ἀδιαφόρως πρὸς γάμου κοινωνίαν συνάπτειν τὰ ἑαυτῶν παιδία αἱρετικοῖς.*

[34] Ibid. 31. (p. 1501 d.) *Ὅτι οὐ δεῖ πρὸς πάντας αἱρετικοὺς ἐπιγαμίας ποιεῖν, ἢ διδόναι υἱοὺς ἢ θυγατέρας, ἀλλὰ μᾶλλον λαμβάνειν, εἴγε ἐπαγγέλλοιντο Χριστιανοὶ γίνεσθαι.* — Cf. C. Eliber. c. 16. (ibid. p. 972 d.) Hæretici si se transferre noluerint ad ecclesiam Catholicam, nec ipsis Catholicas dandas esse puellas; sed neque Judæis, neque hæreticis, dare placuit; eo quod nulla possit esse societas fideli cum infideli.

[35] L. 1. c. 9. (v. 2. p. 31. 35.)... *Ἔδοξεν Ἄρειόν τε καὶ τοὺς Ἀρείου ὁμογνώμονας, Πορφυριανοὺς μὲν καλεῖσθαι, ἵν' ὧν τοὺς τρόπους μεμίμηνται, τούτων ἔχωσι καὶ τὴν προσηγορίαν· πρὸς δὲ τούτοις καὶ εἴ τι σύγγραμμα ὑπὸ Ἀρείου συντεταγμένον εὑρίσκοιτο, τοῦτο πυρὶ παραδίδοσθαι. ...Ἐκεῖνο μέν τοι προαγορεύω, ὡς εἴ τις σύγγραμμα ὑπὸ Ἀρείου συνταγὲν φωραθείη κρύψας, καὶ μὴ εὐθέως προσενεγκὼν πυρὶ καταναλώσῃ, τούτῳ θάνατος ἔσται ἡ ζημία.*

[36] Cod. Theod. l. 16. tit. 5. de Hæreticis, leg. 34. (t. 6. p. 152.) Eunomianæ superstitionis clerici, seu Montanistæ, consortio vel conversatione civitatum universarum atque urbium expellantur.... Codices sane

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rius against the Eunomians, a noted branch of the Arian heresy, wherein their books are ordered to be sought after with a very diligent search, and to be burnt in the sight of the judges. And if any one was convicted of fraudulent hiding, and not discovering them, he should be punished with death, as a retainer and concealer of pernicious and magical books, containing the institutions of all manner of wickedness. The other law was made by Theodosius Junior against the Nestorians, where he refers to the former law of Constantine, and orders the followers of Nestorius to be called *Simonians*, for their imitating the portentous superstitions of Simon Magus; as Constantine had appointed the Arians to be called *Porphyrians*, from Porphyry the Heathen. Then he orders[37] their books, written against the Catholic faith and the Council of Ephesus, to be publicly burnt, forbidding any one to have, read, or transcribe them, under pain of confiscation.

This custom of burning heretical books is confirmed by many other laws; of which more hereafter, when we come to speak of the punishment of heretics in particular. Here I observe, that the prohibition of reading or retaining them was so limited by the Church, as to allow bishops to read them, when time and necessity so required, in order to confute them. For the fourth Council of Carthage[38], which forbids them universally

eorum, scelerum omnium doctrinam ac materiam continentes, summa sagacitate mox quæri ac prodi exserta auctoritate mandamus, sub aspectibus eorum judicantum incendio mox cremandos. Ex quibus si quis forte aliquid qualibet occasione vel fraude occultasse, nec prodidisse convincitur, sciat se, velut noxiorum codicum, et maleficii crimine conscriptorum, retentorem, capite esse plectendum.

[37] Ibid. leg. 66. (t. 6. p. 190.) Et in Act. C. Ephes. part. 3. c. 46. (CC. t. 3. p. 1211 b.) Damnato portentosæ superstitionis auctore Nestorio, nota congrui nominis ejus inuratur gregalibus, ne Christianorum appellatione abutantur: sed quemadmodum Ariani lege divæ memoriæ Constantini ob similitudinem impietatis Porphyriani a Porphyrio nuncupantur, sic utique participes nefariæ sectæ Nestorii Simoniani vocentur: ut cujus scelus sunt in deserendo Deo imitati, ejus vocabulum jure videantur esse sortiti. Nec vero impios libros nefandi sacrilegii Nestorii, adversus venerabilem Orthodoxorum sectam decretaque sanctissimi cœtus antistitum Ephesi habiti scriptos, habere, aut legere, aut describere quisquam audeat: quos diligenti studio requiri, ac publice comburi decernimus. Ita, ut nemo in religionis disputatione aliquam supradicto nomine faciat mentionem: aut quibusdam eorum, habendi concilii gratia, in ædibus, aut villa, aut suburbano suo, aut alio quolibet loco, conventiculum, clam aut aperte, præbeat; quos omni conventus celebrandi licentia privari statuimus: scientibus universis, violatorem hujus legis publicatione bonorum esse coërcendum.

[38] C. 16. (t. 2. p. 1201 c.) Ut epi-

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the reading of Heathen authors, allows the reading of heretical books, with this limitation and restriction. And therefore the retaining them in this case was not to be interpreted that fraudulent retaining and concealment, which the imperial laws condemned under the penalties of confiscation and death. Gothofred[39] observes one thing further upon the usefulness and effect of these laws, which is fit to be remarked, 'that the terror of them made heretics very cautious how they dispersed their books, and others as cautious how they retained or concealed them:' insomuch that when St. Basil was about to confute the first Book of Eunomius, he had a hard matter to compass it, as Photius[40] reports, the Eunomians were so industrious in concealing it. And when Eunomius had written his latter Books in answer to Basil he durst not publish them, but only among his confederates, in St. Basil's life time, for fear of Basil; and after his death[41], durst only trust them in the hands of his friends, for fear of the penalties which the laws had laid upon them; though Philostorgius[42], the Arian historian, makes bold after his manner to give a different relation of it.

What meant by *delivering unto Satan.*

15. There are two or three things more, relating to the manner and form and effects of excommunication, which have something of difficulty in them, and therefore it will be proper to give them a little explication here.

The first difficulty arises from the Apostle's order, given to

scopus Gentilium libros non legat; hæreticorum autem pro necessitate et tempore.—See before, b. 6. ch. 3. s. 4. v. 2. p. 236., where this question is treated more largely.

[39] In Cod. Theod. l. 16. tit. 5. de Hæreticis, leg. 34. (t. 6. p. 153. ad summ. col. dextr.) Quanquam meminerimus hæc et similia ab imperatoribus, ubi ad summam impudentiam hæretici venerant, ad terrorem ferme scripta, &c.

[40] Biblioth. cod. 137. (p. 313. 15.) Κρύφιον δὲ καὶ ἀνέκφορον τοῖς ἄλλοις εἶναι διεσπούδαστο, μόλις ποτὲ ὁ μέγας Βασίλειος ἐπὶ χεῖρας λαβεῖν δυνηθεὶς, κ. τ. λ.

[41] Ibid. cod. 138. (p. 313. 43.) Ἐπιμελῶς, καὶ ὥσπερ ὁ τοῦ Κρόνου μῦθος τὸ γέννημα καταπιὼν, ἔκρυπτέ τε καὶ συνεκάλυπτε· μέχρις ἂν ἡ Βασιλείου ζωὴ τῷ ἐπικήρῳ παρατεινομένη βίῳ τὸν φόβον ἐπέσειεν· ἐπεὶ δὲ ὁ θεῖος ἐκεῖνος ἀνὴρ, τὴν παροικίαν λιπὼν, εἰς τὸν οἰκεῖον καὶ οὐράνιον κλῆρον ἀνέδραμε, τοῦ πολλοῦ λυθέντος δέους, ὅτε τοῦ καιροῦ τὸ δημοσιεύειν ὑπῆρχεν, οὔτε τότε πᾶσιν, ἀλλὰ τοῖς φίλοις ἐθάρρησεν.

[42] L. 8. c. 12. (v. 3. p. 525. 8.) Ὅτι οὐ μόνον τὸν μέγαν Βασίλειον, ἀλλὰ καὶ τὸν Ἀπολλινάριον λέγει πρὸς τὴν ἀπολογίαν Εὐνομίου ἀντιγράψαι· εἶτα πάλιν, Εὐνομίου ἐν πέντε λόγοις συμπλακέντος Βασιλείῳ, ἐντυχεῖν ἐκεῖνον τῷ πρώτῳ, καὶ βαρυθυμήσαντα λιπεῖν τὸν βίον.

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the Corinthians, how to proceed against the incestuous person who had married his father's wife, (1 Cor. 5, 5,) where he enjoins them, in the name and with the power of the Lord Jesus Christ, to "deliver such an one unto Satan, for the destruction of the flesh, that the spirit may be saved in the day of the Lord Jesus." So again, (1 Tim. 1, 20,) speaking of Hymenæus and Philetus, he says, "Whom I have delivered unto Satan, that they may learn not to blaspheme."

There are two famous expositions of these passages. Bishop Beveridge[43], and Estius[44], after Balsamon[45] and Zonaras[46], with many other modern interpreters, whom Estius mentions, think that *delivering unto Satan* is but another expression for *excommunication*, and the spiritual effects consequent to it; that is, the punishment of the soul, and not of the body. For when men are cast out of the society of the faithful, which is the Church of Christ, they are thereby deprived of all the benefits that are proper and peculiar to that society; as the common prayers of the Church, the public use of the word or doctrine, the participation of the sacrament, the pastoral care of those that preside over them, and the special grace of divine protection; and so remain exposed to the tyranny and incursions of Satan, whose kingdom is without the Church. And thus far they allow that every excommunicated person was delivered unto Satan, but not for any corporal vexation or punishment to be inflicted on him.

[43] Not. in C. Apost. 10. Oper. t. 2. append. p. 21. (ap. Cotel. v. 1. p. 461.)..... Ipse fundator et caput ecclesiæ in mandatis dedit, ut qui ecclesiam audire neglexerit, sit ὅσπερ ὁ ἐθνικὸς καὶ ὁ τελώνης, Matth. 18, 17: hoc est, *ecclesia ejiciatur*, sive *excommunicetur*. Quod D. Paulus postea expressit per παραδοῦναι τῷ Σατανᾷ, 1 Cor. 5, 5. 1 Tim. 1, 20.

[44] In 1 Cor. 5, 5. (p. 237.) Dicuntur enim, qui ad hunc modum excommunicantur, tradi Satanæ, quia projecti extra societatem fidelium, quæ est ecclesia Christi, et per hoc pr vari bonis omnibus illi societatem fid elium, quæ est ecclesia Christi, et per hoc privari bonis omnibus illi societati propriis ac peculiaribus, veluti sunt orationes ac suffragia communia, sacramentorum participatio, specialis divina protectio, cura pastoralis eorum, qui præsunt et cætera talia; tyrannidi et incursibus Diaboli, cujus regnum est extra ecclesiam, relinquuntur expositi.

[45] In Basil. c. 7. p. 938. (ap. Bevereg. t. 2. part. 1. p. 58 f.) Ἐκεῖνοι δὲ λέγονται παραδοθῆναι τῷ Σατανᾷ, οἱ χωριζόμενοι ἀπὸ τῆς κοινωνίας τῶν πιστῶν· οἱ γοῦν ἐπὶ τοσοῦτον χρόνον ἀφορισθέντες, ὡσανεὶ τῷ Σατανᾷ παρεδόθησαν.

[46] Ibid. (ap. Bevereg. ibid. p. 59 c.) Τινὲς μὲν οὖν δαίμονι κάτοχον γενέσθαι τὸν πορνεύσαντα λέγουσι· τινὲς δὲ, νόσου μάστιγι ἐκδοθῆναι· καί τοι ἐξ αὐτῶν πρὸς Κορινθίους Ἐπιστολῶν λυομένου τοῦ ἀμφιβόλου, καὶ δηλουμένου, ὅτι τὸ παραδοθῆναι τῷ Σατανᾷ ἀφορισθῆναι ἐστί, κ. τ. λ.

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Others are of opinion, that besides this spiritual punishment naturally consequent to excommunication, there was in the Apostles' days another consequent of it, which was *corporal power and possession*, or the infliction of bodily vexations and torments by the ministry of Satan on those who were delivered unto him. Dr. Hammond, and Grotius, and Lightfoot, are the great supporters of this opinion among the moderns, and they have almost the general concurrence of the ancient interpreters on their side; which Estius does not much deny, though he chose to follow Peter Lombard and Aquinas, and the ordinary gloss against them. He owns St. Chrysostom and the Greeks were wholly of this opinion; and among the Latins, St. Ambrose and Pacian; and St. Austin also, though not very positive, he thinks, in his assertion. But he is mistaken: for St. Austin was clearly of this opinion. He does not say, indeed, it was death which the Apostle inflicted upon the Corinthian, as St. Peter did upon Ananias and Sapphira; but he says expressly [47], it was 'some punishment inflicted on him by the ministry of Satan.' Which he distinguishes from a common excommunication, by the name of *flagellum Domini, the scourge of the Lord;* which, he says[48], 'the Apostle used upon some special occasions, when there was no way to cure an epidemical disease, or correct a single sinner, buoyed up and favoured by the multitude, but only by interceding with God to take the matter into his own hand, and use the severe mercy of his own divine discipline upon them, when the contagion of sin had invaded a multitude: in which case, it were not only in vain to advise men to separate from sinners, but pernicious and sacrilegious; because such counsels in such a state of affairs would be thought impious and proud, and more tend to disturb good

[47] De Serm. Dom. in Mont. l. 1. c. 20. (t. 3. part. 2. p. 194 d.) Et si nolunt hic mortem intelligere, fortasse enim incertum est, quamlibet vindictam per Satanam factam ab Apostolo fateantur, &c.

[48] Cont. Ep. Parmenian. l. 3. c. 2. (t. 9. p. 65 c.) Quid aliud dixit hic, *Non parcam*, nisi quod superius ait, *Et lugeam multos:* ut luctus ejus impetraret flagellum a Domino, quo illi corriperentur, qui jam propter multitudinem non poterant ita corripi, ut ab eorum conjunctione se cæteri continerent, et eos erubescere facerent? .... Et revera si contagio peccandi multitudinem invaserit, divinæ disciplinæ severa misericordia necessaria est: nam consilia separationis et inania sunt et perniciosa atque sacrilega; quia et impia et superba fiunt, et plus perturbant infirmos bonos, quam corrigant animosos malos.

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men that were weak, than correct the stubbornness and animosity of the evil.' In this sense he there also in like manner interprets two other passages of the Apostle: first, 2 Cor. 12, 21. "Lest, when I come again, my God will humble me among you, and that I shall bewail many which have sinned already, and have not repented of the uncleanness and fornication and lasciviousness which they have committed."—and 2 Cor. 13, 1. 2. 3. "This is the third time I am coming to you. In the mouth of two or three witnesses shall every word be established. I told you before, and foretell you, as if I were present, the second time; and being absent now I write to them which heretofore have sinned, and to all other, that, if I come again, I will not spare: since ye seek a proof of Christ speaking in me." Here, he says[49], the Apostle does not 'threaten them with that punishment which should make others abstain from their society, but by his prayers and tears to turn them over to the divine scourge to correct them;' and that this was the power of Christ speaking in him. Where nothing can be plainer, than that St. Austin distinguishes this as an extraordinary power from the ordinary power of excommunication; which the Apostle had in reserve for such difficult cases, where the ordinary power of excommunication, by reason of the multitude or confederacy of sinners, would not by its own bare virtue prove effectual. So that, according to him, this power of *delivering unto Satan* was something superior to that ordinary power of casting men out of the Church, and the society of the faithful. St. Ambrose was of the same mind with St. Austin: for, explaining how the incestuous man was punished, he says[50], 'As the Lord gave the Devil no power over the soul of holy Job, but only permitted him to afflict his body; so this man was delivered to Satan.' And St. Jerom[51] says, 'the Apostle commanded him to be put under penance for the destruction and vexation of the flesh by fasting and sickness, that his spirit might be saved.' And so

[49] Ibid. (b.).... Per luctum suum potius eos divino flagello coercendos minans, quam per illam correptionem, ut cæteri ab eorum conjunctione se contineant.

[50] De Pœnitent. l. 1. c. 13. (t. 2. p. 406 d. n. 60.) Sicut Dominus in animam sancti Job potestatem non dedit, sed in carnem ejus permisit licentiam, ita et hic traditur Satanæ.

[51] In Gal. 5. (t. 7. p. 489 a.) Præcepit eum ..... tradi pœnitentiæ, in interitum et vexationem carnis, per jejunia et ægrotationes, ut spiritus salvus fiat.

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Pacianus[52], by the destruction of the flesh, understands tribulation and infirmities of the body. The Author of the Short Notes, under the name of St. Jerom[53], says the same. So likewise Cassian[54], to whom Estius himself adds Primasius, and Haimo.

St. Chrysostom, among the Greeks, gives the same sense of the Apostle's words. He says[55], 'the Apostle delivered the Corinthian offender to Satan, as to a schoolmaster, for the destruction of the flesh. As it happened to holy Job, but not for the same cause: for there it was done to make his crown of glory more illustrious; but here the man only gains remission of his sins, that Satan might torture him with some cruel ulcer, or other disease.' And he observes how the Apostle says elsewhere, that such diseases were sometimes inflicted on sinners immediately by the hand of God: when we suffer such things,

[52] Ep. 3. ad Sempronian. ap. Bibl. Patr. t. 3. p. 66. (ap. Galland. t. 7. p. 267 d.) Deinde vides quod hic ipse peccator incestus non morti traditur, sed Satanæ ad emendandum, ad colophizandum, ad pœnitendum..... *Ad interitum carnis*, non tamen animæ, non etiam spiritus, sed ad solius carnis interitum, tentationes scilicet, carnis angustias, detrimenta membrorum.

[53] In 1 Cor. 5, 5. (t. 11. p. 912 d.) Ut arripiendi illum corporaliter habeat potestatem. Quod cum viderit se nec carnis hic, nec in futuro spiritus requiem habiturum, de facto pœniteat, ut salvetur. Sive sic quisque pro meritis suis de ecclesia pellitur, Satanæ traditur potestati: ut, dum caro ejus per pœnitentiam afflicta quemdam interitum patitur, spiritus conservetur.

[54] Collat. 7. c. 25. (p. 326.) Corporaliter traditos Satanæ, vel infirmitatibus magnis etiam viros sanctos novimus pro levissimis quibusque delictis, &c.—C. 27. (p. 328.) Diro confestim est traditus Dæmoni, ut humanas egestiones ori suo ab eo suppletus ingereret. Quod flagellum purgationis gratia se Dominus intulisse, ne scilicet in eo vel momentanei delicti macula resideret, velocitate curationis ejus atque auctore remedii demonstravit.—C. 28. (p. 329.) Ex quo manifeste perpenditur, non debere eos abominari vel despici, quos videmus diversis tentationibus, sive istis nequitiæ spiritibus tradi; quia duo hæc credere immobiliter nos oportet: primo, quod sine Dei permissu nullus ab eis omnino tentetur: secundo quod omnia, quæ a Deo nobis inferuntur, sive tristia ad præsens seu læta videantur, velut a piissimo patre clementissimoque medico pro nostris utilitatibus irrogentur: et idcirco eos velut pædagogis traditos humiliari, ut discedentes ex hoc mundo, vel purgatiores ad vitam aliam transferantur, vel pœna leviore plectantur, qui secundum Apostolum traditi sunt in præsenti Satanæ in interitum carnis, ut spiritus salvus fiat in die Domini nostri Jesu Christi.

[55] Hom. 15. in 1 Cor. p. 451. (t. 10. p. 127 c.) ... *Ὥσπερ παιδαγωγῷ τὸν τοιοῦτον παραδιδούς.... Εἰς ὄλεθρον τῆς σαρκός· ὥσπερ ἐπὶ τοῦ μακαρίου Ἰὼβ γέγονεν, ἀλλ' οὐχ ὑπὲρ τῆς αὐτῆς ὑποθέσεως· ἐκεῖ μὲν γὰρ ὑπὲρ στεφάνων λαμπροτέρων, ἐνταῦθα δὲ ὑπὲρ ἁμαρτημάτων λύσεως· ἵνα μαστίξῃ αὐτὸν ἕλκει πονηρῷ, ἢ νόσῳ ἑτέρᾳ. Καὶ μὴν ἀλλαχοῦ φησιν, Ὅτι ὑπὸ τοῦ Κυρίου κρινόμεθα ταῦτα πάσχοντες· ἀλλ' ἐνταῦθα μᾶλλον καθάψασθαι θέλων, τῷ Σατανᾷ παραδίδωσι.*

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we are judged of the Lord; but here he delivers him to Satan, the more sensibly to touch and affect him. He gives the same exposition of the Apostle's words concerning Hymenæus and Philetus, "Whom I have delivered unto Satan, that they may learn not to blaspheme." 'As executioners,' says he[56], 'though they be very wicked themselves, are made instruments of chastising others: so here it is with the wicked devils. Job was thus delivered to Satan, not for his sins, but to obtain the greater glory.' He adds, 'that God often did this immediately by his own power, without the intervention of any human ministry. For many times the priests know not who are sinners, or who are unworthy partakers of the holy mysteries: therefore God takes the judgment into his own hands, and delivers them unto Satan. For when diseases, or misfortunes, or sorrows, or calamities, or any thing of the like kind befalls men, it is for this reason, as St. Paul also intimates, saying, "For this cause many are sick and weak among you, and many sleep." Theodoret follows Chrysostom in his exposition: for, speaking of Hymenæus and Alexander, he says[57], 'the Apostle delivered them to Satan, as to a cruel executioner; for being separated from the body of the Church, and left destitute of divine grace, they were cruelly tormented by the adversary, falling into diseases, and sufferings, and other evils and calamities, which the Devil is wont to inflict upon men.'

Now this being the general sense of the Ancients, both Greek and Latin, that this was an extraordinary apostolical power, distinct from the ordinary power of excommunication, we do not find that they ordinarily made use of this phrase,

[56] Hom. 5. in 1 Tim. p. 1547. (t. 11. p. 576 c.) *Ὥσπερ οἱ δήμιοι μυρίων γέμοντες κακῶν τοὺς ἄλλους σωφρονίζουσιν, οὕτω καὶ ἐνταῦθα ἐπὶ τοῦ πονηροῦ δαίμονος.* — Ibid. infra. (p. 577 a.) *Οὕτω καὶ ὁ Ἰὼβ παρεδόθη τῷ Σατανᾷ· ἀλλ' ἐκεῖνος οὐχ ὑπὲρ ἁμαρτημάτων, ἀλλ' ὑπὲρ πλείονος εὐδοκιμήσεως. Πολλὰ τοιαῦτα γίνεται, καὶ νῦν· ἐπειδὴ γὰρ οἱ ἱερεῖς οὐ πάντας ἴσασι τοὺς ἁμαρτωλοὺς, καὶ ἀναξίως τῶν μυστηρίων μετέχοντας, ὁ Θεὸς πολλάκις τοῦτο ποιεῖ, καὶ παραδίδωσιν αὐτοὺς τῷ Σατανᾷ. Ὅταν γὰρ νόσοι, ὅταν ἐπιβουλαὶ, ὅταν πένθη καὶ συμφοραὶ συμβαίνωσιν, ὅταν ἄλλά τινα τοιαῦτα, διὰ τοῦτο γένεται. Καὶ τοῦτο ὁ Παῦλος δηλοῖ, οὕτω λέγων, Διὰ τοῦτο ἐν ὑμῖν πολλοὶ ἀσθενεῖς, καὶ ἄρρωστοι καὶ κοιμῶνται ἱκανοί.*

[57] In 1 Tim. 1, 20. (t. 3. part. 1. p. 646.) *Τῷ διαβόλῳ . . . . . παρέδωκε τούτους ὡς δημίῳ πικρῷ· . . . . τοῦ γὰρ ἐκκλησιαστικοῦ σώματος χωρισθέντες, καὶ τῆς θείας χάριτος γυμνωθέντες, πικρὰς παρὰ τοῦ δυσμενοῦς ἐδέχοντο μάστιγας, καὶ νόσοις καὶ παθήμασι χαλεποῖς περιπίπτοντες, καὶ ζημίαις, καὶ συμφοραῖς ἑτέραις.*

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delivering unto Satan, in any of their forms of excommunication; as being sensible that the Church, after the power of miracles was ceased, had no pretence to the power of inflicting bodily diseases, as the Apostles had, upon excommunicate persons by the ministry of Satan. Cassian[58] indeed tells us, that he knew several holy men that were corporally delivered to Satan, and to great infirmities, for small offences. But that was by the immediate hand of God, and his chastisements, and not by the censures of the Church, which did not excommunicate holy men, nor any others, for small offences. The author of the Life of St. Ambrose[59] says also, 'that he, having to deal with a very flagitious sinner, said he ought to be delivered to Satan for the destruction of the flesh, that no one may dare to commit such things for the future. And he had no sooner spoken the word, but immediately, the very same moment, an unclean spirit seized the man, and began to tear him.' But this, if true, was a singular instance of apostolical and miraculous power yet remaining in St. Ambrose, and there is scarce a parallel instance to be met with in all the history of the Church. The Canons of old very rarely used this phrase. St. Basil[60] mentions it once, and Gratian[61] cites an Epistle of Pope Pelagius, where it is said, 'By the example of apostolical authority, we have learned to deliver unto Satan erring spirits, which draw others into error, that they may learn not to blaspheme.' But in these places it seems to mean no more than excommunication or expulsion out of the Church, which is the spiritual delivering up to Satan, without any regard to bodily torture. For all men are sensible, that since the Apostles' days there was no such power generally granted to the ministers of the Church. And for this reason, Peter de Moulin[62] tells us,

[58] Collat. 7. c. 25. See n. 54, preceding.

[59] Paulin. Vit. Ambros. (t. 2. præfix. append. p. 12 a. n. 43.).... Cum deprehendisset auctorem tanti flagitii, ait, Oportet illum tradi Satanæ in interitum carnis, ne talia aliquis in posterum audeat admittere. Quem eodem momento, cum adhuc sermo esset in ore sacerdotis [sancti] spiritus immundus correptum [al. arreptum] discerpere cœpit.

[60] C. 7. [ap. Oper. Basil. Ep. 188. Canonic. Prim.] (CC. t. 2. p. 1724 b.) Σχεδὸν γὰρ ὅλην γενεὰν ἀνθρώπου παρεδόθησαν τῷ Σατανᾷ, ἵνα παιδευθῶσι μὴ ἀσχημονεῖν.

[61] Pelagius ap. Gratian. caus. 24. quæst. 3. c. 13. (t. 1. p. 1424. 58.) Apostolicæ auctoritatis exemplo didicimus errantium et in errorem mittentium spiritus tradendos esse Satanæ, ut blasphemare dediscant.

[62] Molinæi Vates, seu De bonis malisque Prophetis. l. 2. c. 11. (p.

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'the reformed Church of France in their national Synod of Alez, at which he himself assisted as moderator, anno 1620, made an order, that in excommunication no one should use the form of *delivering unto Satan.* Neither should the censure of *anathema maranatha!* be pronounced against any man; forasmuch as no one ought to use that form, but he that knows the secrets of reprobation, and can tell by the revelation of God's Spirit, whether the person excommunicated has sinned against the Holy Ghost, or [has sinned] the sin unto death, that is, with such impenitency as will be final, and continue unto death; for which, St. John says, no one ought to pray.' The prohibition here of the use of the form *anathema maranatha!* leads us to another inquiry,—what the Ancients understood by it? and whether they used it at any time as a form of excommunication?

What meant by *anathema maranatha!* and whether any such forms of excommunication were in use in the ancient Church.

16. *Anathema* is a word that occurs frequently in the ancient canons, and the condemnation of all heretics. The Council of Gangra closes every one of its canons with the words *Ἀνάθεμα ἔστω, Let him be anathema,* or *accursed!* that is, separated from the communion of the Church and its privileges, and from the favour of God, without repentance, that goes against the tenour of the thing there decreed. And this is the style of most other Councils, grounded upon that form of St. Paul, "If we, or an angel from heaven, preach any other gospel unto you than that which we have preached unto you, let him be *anathema,* or *accursed.*" [Gal. 1, 8.] But the adding of *maranatha* to *anathema* is not so common.

There is little said of the word itself among the Ancients[63], and less of its use in any form of excommunication. St. Chry-

114.) Prudenter igitur cautum est, a Synodo nationali Alensi, ne quis deinceps in excommunicationibus utatur hac loquendi formula, *tradendi Satanæ,* nec vibret in quenquam *anathema maranatha,* ... quæ ab eis solis vibrari potest, qui norunt arcana reprobationis, et Deo revelante sciunt, an qui excommunicatur, peccet in Spiritum Sanctum, aut peccato ad mortem, id est, impœnitentia ad mortem usque duratura, pro quo peccato Johannes negat orandum esse. (1 Joh. 5, 16.)

[63] Gratian, Caus. 23. quæst. 4. c. 30., mentions it as used in a form of excommunication by Pope Sylverius. (t. 1. p. 1316. 34.) Ego tamen propterea non dimisi, nec dimitto officium meum, sed cum episcopis, quos congregare potui, eos, qui talia erga me egerunt, anathematizavi, et una cum illis apostolica et synodali auctoritate statui, nullum unquam taliter decipiendum, sicut deceptus sum: et si aliquis deinceps ullum unquam episcoporum taliter deceperit, *anathema maranatha,* fieret in conspectu Dei et sanctorum angelorum.

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sostom says it is a Hebrew word, signifying *The Lord is come!* and he particularly applies it to the confusion of those who still abused the privileges of the Gospel, notwithstanding that the Lord was come among them. 'This word,' says he[64], 'speaks terror to those who make their members the members of an harlot, who offend their brethren by eating things offered to idols, who name themselves by the names of men, who deny the resurrection. The Lord of all is come down among us; and yet ye continue the same men ye were before, and persevere in your sins.' St. Jerom[65] says it was more a Syriac than a Hebrew word, though it had something in it of both languages, signifying *Our Lord is come!* But he applies it against the perverseness of the Jews, and others who denied the coming of Christ: making this the sense of the Apostle, 'If any man love not the Lord Jesus Christ, let him be *anathema! The Lord is come.* Wherefore it is superfluous for any to contend with pertinacious hatred against him, of the truth of whose coming there is such apparent demonstration.' The same sense is given by Hilary the deacon and Pelagius who wrote under the names of St. Ambrose[66] and St. Jerom[67];

[64] Hom. 44. in 1 Cor. p. 718. (t. 10. p. 410 b.).... *Ἀνάθεμα. Δι' ἑνὸς τούτου ῥήματος πάντας ἐφόβησε, τοὺς τὰ μέλη αὐτῶν ποιοῦντας πόρνης μέλη, τοὺς σκανδαλίζοντας τοὺς ἀδελφοὺς διὰ τῶν εἰδωλοθύτων, τοὺς ἀπ' ἀνθρώπων ὀνομαζομένους, τοὺς τῇ ἀναστάσει διαπιστοῦντας .... Μαραναθά. Τίνος ἕνεκεν τοῦτο εἴρηται; τί δήποτε καὶ Ἑβραΐδι φωνῇ; ἐπειδὴ πάντων τῶν κακῶν ὁ τῦφος αἴτιος ἦν. .... Καταστέλλων αὐτῶν τὸν τῦφον, οὐδὲ Ἑλλάδι κέχρηται γλώσσῃ, ἀλλὰ τῇ Ἑβραΐδι. ... Τί δέ ἐστι μαραναθά; Ὁ Κύριος ἡμῶν ἦλθε. Τίνος οὖν ἕνεκεν αὐτὸ τοῦτό φησι; τὸν τῆς οἰκονομίας βεβαιῶν λόγον, ἐξ ὧν μάλιστα τὰ σπέρματα τῆς ἀναστάσεως συντέθεικεν· οὐ τοῦτο δὲ μόνον, ἀλλὰ καὶ ἐκείνους ἐντρέπων. Ὡσανεὶ ἔλεγεν, Ὁ κοινὸς πάντων Δεσπότης καταβῆναι τοσοῦτον κατηξίωσε, καὶ ὑμεῖς ἐν τοῖς αὐτοῖς ἐστε, καὶ ἐπιμένετε ἁμαρτάνοντες.*

[65] Ep. 137. [al. 26.] ad Marcellam. (t. 1. p. 131 b.) Maranatha magis Syrum est quam Hebræum: tamen etsi ex confinio utrarumque linguarum aliquid et Hebræum sonat, et interpretatur, *Dominus noster venit:* ut sit sensus, *Si quis non amat Dominum Jesum Christum anathema sit;* et illo completo deinceps inferatur, *Dominus noster venit:* Quod superfluum sit adversum eum odiis pertinacibus velle contendere, quem venisse jam constet.

[66] In 1 Cor. 16. [v. 22.] (Ed. Paris. 1661. t. 3. p. 410.) *Maranatha* magis Syrum est quam Hebræum: tamen ex sermone utrarumque linguarum aliquid Hebræum sonat et interpretatur, *Dominus noster venit.* [The Benedictine (t. 2. append. p. 170 c.) reads the passage thus,—Quod interpretatur; Si quis Dominum Jesum, qui venit, non amat, abscidatur. *Maranatha* enim *Dominus venit* significat. Hoc propter Judæos, qui Jesum non venisse dicebant: hi ergo anathema sunt a Domino, qui venit. Ed.]

[67] In 1 Cor. 16. (t. 11. p. 950 b.) .... Interpretatur, *Dominus noster venit.*

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and it is received by Estius and Dr. Lightfoot as the truest interpretation. So that, according to this sense, *maranatha!* could not be any part of the form of excommunication, but only a reason for pronouncing *anathema!* against those who expressed their hatred against Christ, by denying his coming; either in words, as the Jews did, who blasphemed Christ, and called Jesus *anathema*, or *accursed;* or else by wicked works, as those who lived profanely under the name of Christian.

Yet others of the Ancients interpret it of the future coming of Christ. As St. Austin[68] says *maranatha* is a Syriac word, signifying *The Lord will come.* And he particularly applies it against the Arians, who could not be said to love the Lord, because they denied his divine nature. Dr. Hammond and many other modern interpreters[69] take *maranatha* in this sense, *The Lord will come to judgment*, as St. Jude says, "The Lord cometh with ten thousands of his saints, to execute judgment upon all the ungodly." And they suppose this answered to the third and highest degree of excommunication among the Jews, called *shammatha.* For they say the Jews had these three degrees of excommunication, *niddui, cherem,* and *shammatha. Niddui* was the lowest degree of excommunication, being only a suspension of the sinner from the synagogue and society of his brethren for thirty days, if he repented: if not, the time was doubled to sixty days; and if he still continued obstinate, it was prolonged to ninety days. Then if he persisted impenitent still, he was punished with a more solemn excommunication called *cherem,* which answers to *anathema,* or *cursing*, because the sinner was cast out with solemn execrations out of the law of Moses. The third species,

[68] Ep. 178. sive Altercatio cum Pascentio. [al. Ep. 20. append.] (t. 2. append. p. 44.) *Anathema* Græco sermone dixit, Condemnatus: *Maranatha* definivit, Donec Dominus redeat.... Non ergo recte dicitur Dominum amare, qui Domini et Dei unius audet substantiam separare, &c.

[69] Vid. Poli Synops. Criticor. in 1 Cor. 16, 22. (t. 5. p. 249. 36.) Tres erant apud Judæos anathematis, sive excommunicationis species: 1. נדוי, *niddui*, hoc est, *profligatio*, a familiari consortio, ad 4. passus. 2. חרם, *herem*, quod solemnius erat, cum execrationibus additis e lege Mosis, quo utebantur in eum, qui monitus non resipiscebat. 3. שמתא, *samatha*, quod hic *maranatha*. Illud autem שמתא varie ἐτυμολογίζουσι, vel 1. שם מיתה, *ibi mors*, vel 2. תהא שממא, *erit desolatio*, vel 3. שם אתא, *Nomen*, i. e. *Jehova*, sive *Dominus, venit.*— Otho, Lexic. Rabbin. (p. 181.) Tertia excommunicationis species et omnium gravissima, &c.

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called *shammatha*, was the most severe, when a sinner, after all human means had in vain been tried upon him, was consigned over totally and finally to the divine judgment as a desperate and irrecoverable sinner. The word *shammatha* is upon this account said to signify either *There is death!* or, *There shall be desolation!* or, *The Lord cometh!* which last origination of the word answers to *maranatha*. Now, from this analogy and similitude of the name, these learned men suppose this form of excommunication was taken into the Christian Church under the name of *maranatha*. But there is this grand objection against the thing, that Chrysostom and St. Jerom, and the rest that have been mentioned, did not so understand it. Besides, that no such word as *maranatha* ever occurs in any ancient form of excommunication.

But still the question may be put further, Whether they had any such excommunication, be the name or form what it would, as was total, final, and irrevocable; so as utterly to exclude sinners from the communion of the Church without hopes of recovery; and so as to make the Church wholly cease to pray for them, or rather pray that God would take them out of the world, and thereby deliver his Church from the malice of their attempts, and power of their seduction? This question consists of several parts, and therefore as it is proposed so it must be answered with some distinction. For first, there is nothing more certain than that the Church did sometimes pronounce a total, final, and irreversible sentence of excommunication against some more heinous criminals, keeping them under penance all their lives, and denying them her external peace and communion at the hour of death for example and terror; yet not precluding them the mercy of God, nor denying them the benefit of her prayers, but encouraging them to hope for favour upon their true repentance at God's final and unerring judgment. In this sense, I say, it is most certain the Church did many times make her sentence of excommunication irreversible, as will be shown more fully hereafter, [in the course of the seventeenth Book.]

Whether excommunication was ever pronounced with execra-

17. But secondly, it is not so apparent that the Church was used to join execration to her censures, and devote men to temporal destruction by utterly refusing to pray for them, or rather praying against them, that God would take them out

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of the world, and deliver his Church by that means from their malicious power and machinations of seducement. Grotius[70] thinks this was very rarely done, but yet that there are some examples of it. For when Julian added to his apostasy devilish designs of rooting out the Christian religion, the Church used this weapon of extreme necessity, and God heard her prayers. He reckons this was done in imitation of the Jewish *shammatha.* For among the Jews, he says a little before, if any fell into enormous crimes, and drew many after them, they did not use the common *anathema* against them, but that more dreadful and tremendous one, which they called *shammatha,* and the Apostle after them, in the same sense, *maranatha.* For *maranatha* signifies *The Lord cometh!* And by that word prayer is made unto God[71], that he would speedily take away the malefactor and seducer out of the world. An example of which sort of *anathema,* he thinks, is given by the Apostle, when he says, "I would that they were even cut off that trouble you." (Gal. 5, 12.)

tion or devoting the sinner to temporal destruction.

The learned Dr. Hickes in this matter joins entirely with Grotius, seeing no other way to account for the many prayers made by the ancient Christians for Julian's destruction. Some indeed fasted and prayed for his repentance and conversion, as supposing he might be recovered from his error. Thus he tells us[72] out of Sozomen[73], how Didymus of Alexandria prayed for him. But others absolutely prayed for his destruction, as thinking him utterly incapable of repentance, and that he had sinned the sin unto death, for which it was in vain to pray. Then he goes on to show the nature of his apostasy, his devotedness to the Devil, and his spite to Christ and the Christians: from whence he concludes[74], it was reasonable for

[70] In Luc. 6, 22. (t. 2. v. 1. p. 379. 36.) Hujus sane rarior est usus, non tamen nullus. Nam in Julianum, cum defectioni adderet machinationes evertendi Christianismi, usa est ecclesia isto extremæ necessitatis telo, et a Deo est exaudita.

[71] Ibid. (p. 378. ad col. dextr. summ.) Ea voce oratur Deus ut quamprimum talem maleficum et seductorem tollat ex hominum numero. Hujus anathematis exemplum est, Gal. 5, 12.

[72] Answer to Julian, ch. 6. (p. 140.)

[73] L. 6. c. 2. (t. 2. p. 219. 44.) Κατ' ἐκείνην τὴν ἡμέραν καὶ Δίδυμος, ὁ ἐκκλησιαστικὸς φιλόσοφος, ἐν Ἀλεξανδρείᾳ διατρίβων, οἷά γε τοῦ βασιλέως εἰς τὴν θρησκείαν διασφαλέντος, περίλυπος ὢν, διά τε αὐτὸν ὡς πεπλανημένον, καὶ διὰ τὴν καταφρόνησιν τῶν ἐκκλησιῶν, ἐνήστευέ τε, καὶ τὸν Θεὸν περὶ τούτου ἱκέτευεν.

[74] Hickes, ibid. (p. 143.)

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the Christians to look upon him as irrecoverable out of the snare of the Devil, and upon that supposition to pray for his destruction. He adds[75] several other arguments to show the reasonableness of their presumption that Julian had a diabolical malice against Christ, and that he was one of those irrecoverable apostates, who had trodden under foot the Son of God, and counted the blood of the covenant, wherewith he was sanctified, an unholy thing, and who had done despite to the Spirit of grace. He had hardened his heart against divine miracles, like Pharaoh, and therefore it is no wonder if some of them called[76] for the plagues of Egypt upon him. He reproached the living God, like Sennacherib, and that made some of them, like Hezekiah[77], to beseech God to bow down his ear and hear, and to open his eyes and see how Julian reproached the Son of God; and thereupon to say, 'O Lord our God, we beseech thee to save us out of his hand, that all the kingdoms of the earth may know that thou art the Lord God, and that Jesus, whom Julian doth so reproach, is thy Son and Christ.' Gregory[78] says he designed worse things against the Christians than Diocletian, Maximian, or Maximinus ever did; that he was Jeroboam, Pharaoh, Ahab, and Nebuchadnezzar all in one; Jeroboam in apostasy, Pharaoh in hardness of heart, Ahab in cruelty, and Nebuchadnezzar in sacrilege; and therefore it is not to be wondered that the Christians, who had such good reason to despair of the conversion of such a complicate tyrant prayed for his destruction, because there was no other apparent way of delivering the Church. And if it should please God for our sins to plague the Church with such a spiteful enemy

[75] Ibid. (p. 151.)

[76] Vid. Greg. Nazianzen. [Orat. 4.] Invect. 2. in Julian. (t. 1. p. 124 d.) *Τὴν ῥομφαίαν τε προεκαλούμεθα, καὶ τὰς Αἰγυπτιακὰς μάστιγας, καὶ δικάσαι τὴν ἑαυτοῦ δίκην ᾐτιοῦμεν, καὶ διαναστῆναί ποτε διεκελευόμεθα κατὰ τῶν ἀσεβῶν, κ. τ. λ.*

[77] Ibid. (pp. 123 b. seqq.) *Ὁ μὲν δὲ οὖν τοῦ Ἰούδα βασιλεὺς Ἑζεκίας, κ. τ. λ.*

[78] [Orat. 3.] Invect. 1. (ibid. p. 93 d.) *Ἃ μήτε Διοκλητιανὸς ὁ πρῶτος ἐνυβρίσας Χριστιανοῖς, μήτε ὁ τούτου ἐκδεξάμενος καὶ ὑπερβαλὼν Μαξιμιανὸς, ἐνεθυμήθη πώποτε, μήτε Μαξιμῖνος, ὁ μετ' ἐκείνους καὶ ὑπὲρ ἐκείνους διώκτης. . . . Ταῦτα ἐκεῖνος διενοεῖτο μὲν, ὡς οἱ τῶν ἀπορρήτων ἐκείνου κοινωνοὶ, καὶ μάρτυρες.*—[Orat. 4.] Invect. 2. (p. 110 d.) *Ἱεροβοὰμ εἰπεῖν, οἰκειότερον, ἢ Ἀχαὰβ τὸν Ἰσραηλίτην, τοὺς παρανομωτάτους, ἢ Φαραὼ τὸν Αἰγύπτιον, ἢ Ναβουχοδονόσορ τὸν Ἀσσύριον, ἢ πάντα ταῦτα συνελόντες, ἕνα καὶ τὸν αὐτὸν ὀνομάσομεν· ἐπεὶ καὶ τὰς πάντων κακίας εἰς ἑαυτὸν συλλεξάμενος φαίνεται, Ἱεροβοὰμ τὴν ἀποστασίαν, Ἀχαὰβ τὴν μιαιφονίαν, Φαραὼ τὴν σκληρότητα, Ναβουχοδονόσορ τὴν ἱεροσυλίαν, πάντων ὁμοῦ τὴν ἀσέβειαν.*

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of Christ, and suffer a popish Julian indeed to reign over us, 'I here declare,' says he, 'that I should believe him incapable of repentance, and upon that supposition should be tempted to pray for his destruction, as the only means of delivering the Church.' Thus far that learned man in his account of the practice of the primitive Christians, and their reasons in praying for the destruction of Julian the Apostate.

To this may be added what St. Jerom[79] says upon the death of Julian, that the Church of Christ with exultation sung her thanks to God in the words of the Prophet, according to the Septuagint, "Thou hast even to our astonishment divided the heads of the powerful." Which is also noted by Theodoret[80], who says the people of Antioch, as soon as they heard of Julian's death, kept public feasts and holidays for joy, and not only in their churches, but in their theatres proclaimed the victory of the cross, exposing the Heathen prophecies to ridicule, particularly those of one Maximus a magician, whom he had consulted: 'O foolish Maximus, where are now thy prophecies? God and his Christ have overcome.' So again he tells[81] us of one Julianus Saba, who had it revealed to him in his prayers that Julian was slain: upon which 'he immediately changed his tears into joy, and put on a cheerful countenance, expressing the inward satisfaction of his mind. Which the by-standers observing, desired to know the reason of his sudden change, and he told them that the wild boar who laid waste

[79] In Hab. 3. 14. (t. 6. p. 660 d.).. Ecclesia Christi cum exultatione cantavit *Divisisti in stupore capita potentium.* [*Διέκοψας ἐν ἐκστάσει κεφαλὰς δυναστῶν, κ. τ. λ.* Ed. Lambert. Bos, Franequer. 1709.—Authorized version, *Thou didst strike through with his staves the head of his villages, &c.* Ed.]

[80] L. 3. c. 28. (v. 3. p. 144. 11.) *Ἡ δὲ Ἀντιόχου πόλις, τὴν ἐκείνου μεμαθηκυῖα σφαγὴν, δημοθοινίας ἐπετέλει καὶ πανηγύρεις· καὶ οὐ μόνον ἐν ταῖς ἐκκλησίαις ἐχόρευον, καὶ τοῖς μαρτύρων σηκοῖς, ἀλλὰ καὶ ἐν τοῖς θεάτροις τοῦ σταυροῦ τὴν νίκην ἐκήρυττον, καὶ τοῖς ἐκείνου μαντεύμασιν ἐπετώθαζον . . . Κοινῇ γὰρ πάντες ἐβόων, Ποῦ σου τὰ μαντεῖα, Μάξιμε μωρέ; ἐνίκησεν ὁ Θεὸς καὶ ὁ Χριστὸς αὐτοῦ.*

[81] Ibid. c. 24. (p. 142. 19.) *Κατ' ἐκείνην τὴν ἡμέραν, καθ' ἣν ἐκεῖνος ἐδέξατο τὴν σφαγὴν, οὗτος ταύτην προσευχόμενος ἔγνω . . . Φασὶ δὲ αὐτὸν ποτνιώμενον καὶ τὸν φιλάνθρωπον ἀντιβολοῦντα Δεσπότην, ἐπισχεῖν μὴν ἐξαπίνης τὴν τῶν δακρύων φοράν· διαχυθῆναι δὲ καὶ θυμηδίας πλησθῆναι, καὶ γανωθῆναι τὸ πρόσωπον, καὶ τοῦτο μηνύσαι τὴν τῆς ψυχῆς ἡδονήν. Ταύτην οἱ συνηθέστεροι τὴν μεταβολὴν αὐτοῦ θεασάμενοι, μηνύσαι σφίσιν ἱκέτευσαν τῆς εὐφροσύνης τὴν ἀφορμήν· ὁ δὲ τὸν σῦν ἔφη τὸν ἄγριον, τὸν τοῦ ἀμπελῶνος τοῦ θείου πολέμιον, δίκας εἰσπεπρᾶχθαι τῶν εἰς τοῦτον ἀδικημάτων, καὶ κεῖσθαι νεκρὸν, τῆς ἐπιβουλῆς πεπαυμένον. Ταῦτα μεμαθηκότες ἐχόρευον ἅπαντες, καὶ τῷ Θεῷ τὸν χαριστήριον προσέφερον ὕμνον.*

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the vineyard of the Lord had now suffered punishment for all the injuries he had done against the Lord; that he now lay dead, and they needed no longer to be afraid of his designs against them. Upon which they all leaped for joy, and sung praises to God for the victory.' Now it is probable that they who thought it their duty thus to give God thanks for his fall, were no less solicitous beforehand to pray for his destruction. Their thanksgivings were a declaration what sort of prayers they had made, and they could not but rejoice when they were heard and answered.

It is some confirmation of all this, that Socrates says, they were used sometimes to cast men out of the Church with execration, as he notes[82] of one Hermogenes, a Novatian bishop, who, for some blasphemous books that he had written, was solemnly excommunicated, *μετὰ κατάρας*, *with cursing*, which in all probability denoted something more than the common *anathema* that accompanied every excommunication. It is also noted by Socrates[83], that Alexander, bishop of Constantinople, prayed thus against Arius: 'If the doctrine of Arius be true, let me die before the day appointed for our disputation: but if the faith which I hold be true, and the doctrine of Arius false, let Arius by the time determined suffer the punishment which his impiety deserves.' Which was accordingly fulfilled: for Arius the next day voided his entrails with his excrements, and so perished by a most ignominious death. The same is related by Athanasius, in his Epistle to Serapion[84], who says, he prayed to God in these words, *Ἆρον Ἄρειον*, *Take Arius out of the world.* All which shows that in some special cases they made no scruple to devote very malicious and incorrigible apostates to extermination and destruction.

[82] L. 7. c. 12. (v. 2. p. 357. 2.) ....'Ερμογένης, ὃς ἐπὶ βλασφήμοις συγγράμμασιν ὑπ' αὐτοῦ μετὰ κατάρας ἐκκεκήρυκτο.

[83] [L. 1. c. 37. (ibid. p. 74. 2.) Ἡ αἴτησις ἦν τοιαύτη· εἰ μὲν ἀληθὴς ἡ Ἀρείου δόξα, ἑαυτὸν τὴν ὡρισμένην ἡμέραν τῇ συζητήσει μὴ ὄψεσθαι· εἰ δὲ, ἣν αὐτὸς ἔχει πίστιν, ἀληθὴς, Ἄρειον τῆς ἀσεβείας δίκην διδόναι, τὸν πάντων αἴτιον τῶν κακῶν.—Ibid. c. 38. (ibid. p. 74. 37.) Καὶ ἅμα τοῖς διαχωρήμασιν ἡ ἕδρα τότε παραυτίκα ἐκπίπτει, καὶ αἵματος πλῆθος ἐπηκολούθει, καὶ τὰ λεπτὰ τῶν ἐντέρων· συνέτρεχε δὲ αἷμα αὐτῷ σπληνί τε καὶ ἥπατι. *Grischov.*]

[84] Ep. ad Serapion. de Morte Arii. t. 1. p. 671. (t. 1. part. 1. p. 270 b.) [Athanasius records it as the prayer of Alexander in the hearing of Macarius. See the context, l. c. n. 3. Ed.]

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Yet, on the other hand, St. Chrysostom was utterly against this practice. For he has a whole Homily upon this point[85], 'that men ought not to anathematize either the living or the dead; they may anathematize their opinions or actions, but not their persons.' Where, as Grotius rightly observes[86], he takes *anathema* in the strictest sense, for praying to God for the destruction of the sinner. Against this he argues from these several topics. 1. Because Christ died for all men, for his enemies, for tyrants, for magicians, for those that hated and crucified him[87]. 2. Because the Church, in imitation of Christ, daily prays for all men[88]. 3. Because the Christian religion rather obliges us to lay down our own lives for our neighbours, than take away theirs[89]. 4. It is usurping upon the prerogative of Christ: 'for what is such an *anathema* but saying, Let him be given to the Devil, let him have no place of salvation; let him be separated from Christ? Who gave thee this authority and power? Why dost thou assume the dignity of the Son of God, who shall sit in judgment, and set the sheep on his right hand, and the goats on his left[90]?' 5. The Apostles had no such practice in excommunication. They cast heretics out of the Church in such manner as one would pluck out a right eye, or cut off a limb, with indications of compassion and sorrow. They carefully rebuked and expelled their heresies, but did not thus anathematize their persons. 6. It is an absurd practice, whether it be used toward the living or the dead. 'If toward the living, thou art cruel in so cutting off one, who is

[85] [Hom. 76. de Anathem. (t. 1. p. 696 a.) Τὰ γὰρ αἱρετικὰ δόγματα τὰ παρ' ὧν παρελάβομεν ἀναθεματίζειν χρὴ, καὶ τὰ ἀσεβῆ δόγματα ἐλέγχειν· πᾶσαν δὲ φειδῶ ἀνθρώπων ποιεῖσθαι, καὶ εὔχεσθαι ὑπὲρ τῆς αὐτῶν σωτηρίας. *Grischov.*]

[86] In Luc. 6, 22. (t. 2. v. 1. p. 379. 31.) Chrysostomus ubi *ἀνάθεμα* pronuntiandum ait *adversus facta, non adversus homines*, intelligit districtum illud *ἀνάθεμα*, quo Deus rogatur ut aliquem coerceat, vel aliter, vel etiam tollendo eum e medio.

[87] Hom. 76. de Anathem. t. 1. p. 909. (t. 1. p. 692 d.)... Οὐχ ὑπὲρ φίλων μόνον καὶ ἰδίων ἀποθανὼν, ἀλλ' ὑπὲρ ἐχθρῶν, ὑπὲρ τυράννων, ὑπὲρ γοήτων, ὑπὲρ μισούντων, ὑπὲρ τῶν σταυρωσάντων.

[88] Ibid. (e.)...Τούτων τοὺς τύπους ἡ ἐκκλησία πληροῖ, καθ' ἑκάστην ὑπὲρ πάντων τὰς ἱκετηρίας ποιουμένη.

[89] Ibid. (b.) ... Ἐκεῖ γάρ φησιν, Ἀγαπήσεις τὸν πλησίον σου ὡς σεαυτόν· ἐνταῦθα δὲ καὶ θνήσκειν ὑπὲρ τοῦ πλησίου.

[90] Ibid. (p. 693 a.) Τί οὖν ἐστιν, ὁ λέγεις ἀνάθεμα; ἀλλ' ὅτι ἀναθέσθω οὗτος διαβόλῳ, καὶ μηκέτι χώραν σωτηρίας ἐχέτω, γενέσθω ἀλλότριος ἀπὸ τοῦ Χριστοῦ· καὶ τίς εἶ σὺ ταύτης τῆς ἐξουσίας καὶ τῆς μεγάλης δυνάμεως; τότε γὰρ καθίσει Υἱὸς τοῦ Θεοῦ, καὶ στήσῃ τὰ μὲν πρόβατα ἐκ δεξιῶν, τὰ δὲ ἐρίφια ἐξ εὐωνύμων.

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still in a capacity of turning and changing his life from evil to good: if toward the dead, thou art more cruel; because now to his own master he stands or falls, and is not under any human power[91].' From all this he concludes[92], 'that we ought only to anathematize the impious and heretical opinions of men, but to spare their persons, and pray for their salvation.'

There are some who make a question, whether this is one of Chrysostom's genuine discourses; but without any good reason; because the matter and style, as Du Pin[93] observes, argue it to be his, and there are other arguments to prove it genuine. Sixtus Senensis[94] and Habertus[95] think he speaks only against private men's using the *anathema* against heretics: but it is plain he argues against the public as well as private use of it, in the sense wherein he takes it, 'that doctrines, and not men, are to be anathematized: we are to pray for the persons of heretics, when we condemn their opinions; and desire their conversion and salvation, not their destruction.' The only thing that can truly be inferred from hence is, that St. Chrysostom had different sentiments about this matter from some others.

[91] Ibid. (b.) ... *Ὡς τὸν ὀφθαλμὸν τὸν δεξιὸν ἐξορύττοντες, οὕτω τοὺς αἱρετικοὺς ἔξω τῆς ἐκκλησίας ἀπέβαλον· ὅπερ ἔνδειξιν ἔχει τῆς μεγάλης αὐτῶν συμπαθείας καὶ ἀλγηδόνος, ὡς ἐπικαιρίου μέλους γινομένης ἀποκοπῆς .... Τὰς μὲν αἱρέσεις διήλεγχον καὶ ἀπέβαλον, οὐδενὶ δὲ τούτων τῶν αἱρετικῶν ταύτην ἐπιτιμίαν προσῆγον.*

[92] Ibid. (p. 695 c.) *Ἡ γὰρ ζῇ καὶ πάρεστιν ἐν τῷ θνητῷ βίῳ τούτῳ, ἢ τέθνηκεν, ὃν ἀναθεματίζειν προῃρησαι. Εἰ μὲν οὖν ἔτι περίεστιν, ἀσεβεῖς ἀποκόπτων τὸν ἐν τρεπτότητι ὄντα, καὶ μετατεθῆναι δυνάμενον ἐκ τοῦ κακοῦ εἰς [τὸ] ἀγαθόν. Εἰ δὲ τέθνηκεν, πολλῷ μᾶλλον· τί δήποτε; ὅτι τῷ ἰδίῳ Κυρίῳ στήκει ἢ πίπτει, οὐκέτι ὑπὸ ἐξουσίαν ἀνθρωπίνην τυγχάνων.*

[93] [Biblioth. cent. 5. (t. 3. p. 24.) Le discours de l'Anathème est de Saint Chrysostome, quoi que quelques critiques en ayent douté. Il est de son stile, il y parle des homilies de la Nature Incompréhensible de Dieu, et il a été cité il y a près de quatre cents ans par Philothée, patriarche de Constantinople, comme un ouvrage de Saint Chrysostome. Ed.]

[94] Biblioth. l. 6. Annotat. 267. (t. 2. p. 420 c. 9.) Porro cum tot locis Chrysostomus excommunicationis ecclesiasticæ auctoritatem defendat, verisimile non est, ut mutata sententia voluerit eam hoc loco damnare; sed hoc magis credendum est, eum hanc homiliam protulisse adversus quosdam temerarios et indoctos, qui, cum non essent ecclesiæ pastores, nec ullam haberent excommunicandi potestatem, tamen odio et contentione inducti dogmata, ab ipsis non intellecta, una cum auctoribus eorum temere damnabant, et anathemate notabant.

[95] Archierat. ad Censur. Pontif. observ. 6. (p. 747.) Multa S. Chrysost. Hom. de Anathemate, (t. 1. Editionis Ducæi,) ubi anathema cuique dici improbat: sed a privatis primo: et ab idiotis, ut ibidem exprimit: deinde cum odio in personas ipsas et cum dispendio caritatis.

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They thought there were some cases in which it was lawful to pray for the destruction of very malicious and incorrigible sinners, such as Julian, when they were past all hopes, and there was no other visible way to save the Church from their hellish designs, but by their destruction: he thought there was no such case; but that every man was capable of pardon so long as he lived in this world, even though he had committed what others called the unpardonable sin against the Holy Ghost, and the sin unto death, of which he had a different notion from what some others had; and therefore that we were to pray for every man's conversion, and not his destruction.

This, as far as I can judge, was the different sense which the Ancients had upon this most difficult matter: and if they varied upon the point in so nice a case, it is not much to be wondered at, since the Moderns are not agreed upon it, but some Churches, as I showed before[96] out of Du Moulin, forbid all such sort of excommunications, as unfit to be used, without a particular revelation. I have stated the matter fairly on both sides, and leave the determination to the liberty and discretion of every judicious reader.

CHAP. III.

Of the objects of ecclesiastical censures, or the persons on whom they might be inflicted: with a general account of the crimes for which they were inflicted.

1. Having thus far explained the nature of ecclesiastical censures, and the several kinds of them, we are next to consider the objects or persons on whom they might be inflicted, and the crimes for which they were inflicted on them.

All members of the Church, falling into great and scandalous crimes, made liable to ecclesiastical censures without exception.

As to the persons or objects of ecclesiastical censure, they were all such delinquents as fell into great and scandalous crimes after baptism, whether men or women, priests or people, rich or poor, princes or subjects: for the ecclesiastical discipline made no distinction, save when the multitude of sinners combining together, made it impossible to put church-censures in execution, or made it hazardous for fear of doing more harm than good by the strict execution of them. Infidels and un-

[96] See s. 16. n. 62, preceding.

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believers were not considered in this matter, as being no members of the Church: according to that rule of the Apostle; (1 Cor. 5, 12.) "What have I to do to judge them also that are without? Do not ye judge them that are within? But them that are without God judgeth. Therefore put away from among yourselves that wicked person." Catechumens were in a middle state between Heathens and Christians, only candidates of baptism, and not yet admitted to full communion by the laver of regeneration and adoption of children: and therefore neither were they the proper objects of church-discipline, save only as they were capable of being thrust down into a lower class of their own order, if they committed any crime deserving such a degradation, of which I have given some account already[1], in speaking of the institution of the catechumens. Here we take discipline, as respecting only those that were called the τέλειοι, *perfect communicants*, or *persons in full communion with the Church.*

Women as well as men.

2. In censuring these, the Church made no distinction of sex or quality. For women were subjected to discipline as well as men. Valesius[2] says, they were very rarely put to do public penance; and Bona[3] says, never at all for the three first ages, but they wept and fasted and did other works of repentance in private. And some take that canon of St. Basil[4] in this sense, where he says, If a woman was convicted of adultery, or confessed it herself, by the ancient rules she was not to be made a public example, δημοσιεύειν οὐκ ἐκέλευσαν οἱ πατέρες. But Cyprian and Tertullian and the ancient Canons make no such distinction: neither is it probable, that when multitudes both of men and women fell openly into idolatry in times of persecution, that the one did public, and the other private penance

[1] B. 10. ch. 2. s. 17. v. 3. p. 472.

[2] In Socrat. l. 5. c. 19. (v. 2. p. 287. n. 1.).... Raro enim mulieres ad publicam pœnitentiam cogebantur.

[3] Rer. Liturg. l. 1. c. 17. n. 5. (p. 213.) Mulieribus nunquam publica pœnitentia, saltem primis ecclesiæ sæculis, imponi solebat; sed privatim flebant, jejunabant, et alia pœnitentiæ opera exercebant.

[4] C. 34. [Oper. Basil. Ep. 199. Canonic. Secund.] (CC. t. 2. p. 1741 a.) Τὰς μοιχευθείσας γυναῖκας, καὶ ἐξαγορευούσας δι' εὐλάβειαν, ἢ ὁπωσοῦν ἐλεγχομένας, δημοσιεύειν οὐκ ἐκέλευσαν οἱ πατέρες ἡμῶν.—[Which is according to the Benedictine Edition of Basil, Paris. 1730. (t. 3. p. 295 b.) Beveridge after Balsamon (Pandect. t. 2. p. 93.) reads δημοσιεύειν μὲν ἐκώλυσαν for δημοσιεύειν οὐκ ἐκέλευσαν, which comes to the same thing. Ed.]

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only. For Cyprian[5] never speaks of any but the public *exomologesis*, or *confession*, and public imposition of hands to reconcile penitents again after lapsing: and yet there it had been proper to have made the distinction between men and women, if he had known of any such distinction in the practice of the Church. But whether their penance was public or private, the case is still the same as to the exercise of discipline upon them. For they were certainly excluded from communion, and that sometimes for many years, and in some cases even to the hour of death, as appears from many canons of the Council of Eliberis[6], Ancyra[7], and others. And this is a sufficient indica-

[5] De Lapsis, p. 128. (p. 97.) Agite pœnitentiam plenam; dolentis ac lamentantis animi probate mœstitiam. Nec vos quorundam moveat aut error improvidus, aut stupor vanus, qui, cum teneantur in tam grandi crimine, percussi sunt animi cæcitate, ut nec intelligant delicta, nec plangant. . . . . Injuste sibi placentes, et transpunctæ mentis alienatione dementes, Domini præcepta contemnunt, medelam vulneris negligunt, agere pœnitentiam nolunt. Ante admissum facinus improvidi, post facinus obstinati; nec prius stabiles, nec postmodum supplices: quando debuerant stare, jacuerunt: quando jacere . . . . debent, stare se opinantur, &c.—Ep. 10. [al. 16.] (p. 195.) Nam cum in minoribus peccatis agant peccatores pœnitentiam justo tempore, et secundum disciplinæ ordinem ad exomologesin veniant, et per manus impositionem episcopi et cleri jus communicationis accipiant: nunc crudo tempore, persecutione adhuc perseverante, nondum restituta ecclesiæ ipsius pace, ad communicationem admittuntur, et offertur nomen eorum, et, nondum pœnitentia acta, nondum exomologesi facta, nondum manu eis ab episcopo et clero imposita, eucharistia illis datur, &c.—[Vid. Baluz. Not. 3. ad Hom. 1. Cæsar. Arelatens. (ap. Bibl. Max. t. 27. p. 340 c. 12.) Primum peccator peccata sua confitebatur coram sacerdote, et ecclesiam orabat ut pro se misero peccatore oraret, &c.—Conf. n. 6. in verba *lacrymas effundite*, et n. 7. ibid. Ed.]

[6] C. 5. (t. 1. p. 971 b.) Si qua domina, furore zeli accensa, flagris verberaverit ancillam suam, ita ut in tertium diem animam cum cruciatu effundat; eo quod incertum sit, voluntate, an casu occiderit; si voluntate, post septem annos; si casu, post quinquennii tempora, acta legitima pœnitentia, ad communionem placuit admitti.—C. 8. (ibid. d.) Item fœminæ, quæ, nulla præcedente causa, reliquerint viros suos, et se copulaverint alteris, nec in fine accipiant communionem.—C. 10. (ibid. e.) Quod si ducitur ab eo, qui inculpatam reliquit uxorem, et eum scierit habere uxorem, quam sine causa reliquit; placuit, nec in fine hujus dari communionem.—C. 12. (ibid. p. 972 a.) Mater, vel parens, vel quælibet fidelis, si lenocinium exercuerit, eo quod alienum vendiderit corpus, vel potius suum, placuit, eas nec in fine accipere communionem.—Conf. ibid. cc. 13, 14, 63, 65.

[7] C. 21. (ibid. p. 1464 b.) *Περὶ τῶν γυναικῶν τῶν ἐκπορνευουσῶν, καὶ ἀναιρουσῶν τὰ γεννώμενα, καὶ σπουδαζουσῶν φθόρια ποιεῖν, ὁ μὲν πρότερος ὅρος μέχρις ἐξόδου ἐκώλυσεν· καὶ τούτῳ συντίθενται· φιλανθρωπότερον δέ τι εὑρόντες, ὡρίσαμεν δεκαετῆ χρόνον κατὰ τοὺς βαθμοὺς τοὺς ὡρισμένους.*

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tion of their being liable to ecclesiastical censure, as well as men.

Nay, there are some undeniable instances of women doing public penance, as Bona owns, in the time of St. Jerom: for he[8], speaking of Fabiola, a rich Roman lady, who had divorced herself from her first husband for adultery, and married a second, says, 'that after the death of the second husband, when she came to consider the unlawfulness of the fact, she put on sackcloth, and made public confession of her error in the Lateran Church, in the sight of all the people of Rome; standing in the order of penitents in Lent, and in a penitent garb, with her hair dissolved, and her cheeks wan with tears, submitting her neck to imposition of hands; the bishop and presbyters and all the people weeping with her.' This seems to have been a voluntary act of penance, as there were many such in those days, when men chose to expiate even private crimes by public penance; but if it had not been customary at all for women to do public penance, St. Jerom would have noted the singularity of it in that respect rather than any other. But he seems to place the singularity of it in this, that she condescended of her own accord to do public penance in a case where no laws of the Church could have obliged her to it. For whilst her husband lived, no constraint could be laid upon her: it being a rule[9] not to admit married persons to public penance without consent of both parties: and when her husband was dead, her crime perhaps was one of that nature which did not directly bring her under the power of ecclesiastical censure, but by her own consent. For, as we shall see more by and by, there were many crimes of that nature, which, though allowed to be sins of no mean size, yet could not bring men against their wills to a course of public penance by any laws of the Church.

[8] Ep. 30. [al. 77.] Epitaph. Fabiolæ. (t. 1. p. 455 d.) Quis hoc crederet, ut post mortem secundi viri in semet ipsam reversa... saccum, indueret, ut errorem publice fateretur, et, tota urbe spectante Romana, ante diem Paschæ in basilica Laterani... staret in ordine pœnitentium, episcopo, presbyteris, et omni populo collacrymantibus, sparso crine, ora lurida, squalidas manus, sordida colla submitteret?

[9] Vid. C. Arelatens. 2. c. 22. (t. 4. p. 1013 d.) Pœnitentiam conjugatis non nisi ex consensu dandam.

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3. But where the crimes were flagrant, and such as the Church could take cognizance of, there she usually proceeded without respect of persons. No regard was had to the rich more than the poor, but all criminals were considered alike, in the business of repentance, as equally obliged to comply with the stated rules of discipline, in order to gain admission into the Church after an expulsion. There was but one door of re-entry, which is so often called *justa* and *legitima pœnitentia, the just* and *legal penance*, by Cyprian[10] and other writers[11]: and no commutation was thought an equivalent, where this was wanting. Which is evident from this, that they would not accept any gifts or oblations from excommunicate persons, or heretics, or schismatics, or any that were not in full communion with the Church[12], lest this should look like communicating with them before their time, and receiving their money in lieu of repentance. Cyprian indeed once intimates[13], that there were some who for filthy lucre were inclined to accept persons; and who, to make a market of unlawful gain, would gratify the rich, and those who could give large gifts, to get them an easier way of admittance than by the severe and tedious way of a just and full penance: but he very sharply inveighs against these, and all their sinister arts of dissolving discipline, and ruining men's souls, under pretence of granting them a fallacious and deceitful peace, which was their real destruction.

The rich as well as the poor. No commutation of penance allowed, nor friendship nor favour.

4. One of these insidious arts, which they managed with some colour and dexterity, was to get the martyrs and confessors in prison to intercede with bishops for such, and write letters in their favour. For we must know that anciently the

What privilege some claimed upon the intercession of the mar-

[10] Ep. 10. [al. 16.] ad Cler. p. 37. See before, s. 2, the second part of n. 5, preceding.—Ep. 62. [al. 4.] p. 9. (p. 174. ad calc.) Si autem de eis aliqua corrupta fuerit deprehensa, agat pœnitentiam plenam, quia quæ hoc crimen admisit, non mariti sed Christi adultera est, et ideo æstimato justo tempore, postea exomologesi facta, ad ecclesiam redeat.—De Lapsis, p. 129. (p. 97.) Agite pœnitentiam plenam, &c.

[11] C. Eliber. c. 14. (t. 1. p. 972 c.) ..... Si alios cognoverint viros, eo quod mœchatæ sint, placuit, per quinquennii tempora, acta legitima pœnitentia, admitti eas ad communionem oportere.—C. 3. (ibid. p. 971 a.) Placuit, in fine eis præstari communionem, acta tamen legitima pœnitentia.

[12] See before, ch. 2. s. 13. p. 105. and b. 15. ch. 2. s. 3. v. 5. p. 241.

[13] Ep. 11. [al. 15.] ad Martyr. p. 35. (p. 194.) .... Qui, personas accipientes, in beneficiis vestris aut gratificantur, aut illicitæ negotiationis nundinas aucupantur.

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tyrs in prison for them. And how this was answered by Cyprian.

martyrs were allowed this privilege, when any penitent had well nigh performed his legal penance, and was near upon being received again, to write letters to the bishop, that such an one might be admitted to communion, though his full term of penance was not quite expired. And so far their petition was commonly accepted. But these crafty men, for a little underhand gain, had got a trick to desire the martyrs to intercede for such as had done little or no penance: nay, they abused their privilege so far, as peremptorily to require the admission of such, without any previous examination of their merits: and sometimes they required the bishop not only to admit such a penitent, but all that belonged to him; which was a very uncertain and blind sort of petition, and created great envy to the bishop, when perhaps twenty or thirty, or a greater number of nameless persons were included in one libel, and the bishop was forced to do a very ungrateful office, and deny them altogether. Cyprian complains much of these abuses, both in his Letter to the Martyrs[14], and in others written upon the same subject to his Clergy[15] and People. But chiefly he complains of those libels which were sent to him by Lucian the Martyr, one of which[16] runs in this form: 'All the confessors to Cyprian the bishop, greeting: Know that we have granted peace to all those, of whom you have had an account how they have behaved themselves since the commission of their crimes: and we would that these presents should be notified by you to the rest of the bishops. We wish you to maintain peace with the holy martyrs.' This Lucian had written many such letters before in the name of Paulus, the confessor, whilst he was in prison, and others after his

[14] Ibid. (p. ead.) Audio quibusdam sic libellos fieri, ut dicatur, *Communicet ille cum suis.* Quod nunquam omnino a martyribus factum est, ut incerta et cœca petitio invidiam nobis postmodum cumulet. Late enim patet quando dicitur, *Ille cum suis;* et possunt nobis viceni, et triceni, et amplius offerri, qui propinqui, et affines, et liberti, ac domestici esse asseverentur ejus, qui accipit libellum.

[15] Ep. 10. [al. 16.] ad Cler. (pp. 194, seqq.) Ep. 12. [al. 17.] ad Pleb. (pp. 196, seqq.) Ep. 18. [al. 26.] ad Cler. (pp. 205, seqq.)

[16] Ep. ad Cypr. 17. [al. 23.] (p. 204.) Universi confessores Cypriano Papæ salutem. Scias nos universis, de quibus apud te ratio constiterit, quid post commissum egerint, dedisse pacem: et hanc formam per te et aliis episcopis innotescere voluimus. Optamus te cum sanctis martyribus pacem habere.—Vid. Lucian. Ep. 20. [al. 22.] ad Celerin. (pp. 202, seqq.)

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death, saying, he had his command so to do. All which Cyprian complains of, in a Letter to the Clergy of Rome[17], as a thing dissolving all the bands of faith, and the fear of God, and the commandments of the Lord, and the holiness and vigour of the Gospel; and as creating great envy to the bishops, whilst they were forced to deny to lapsers what they boasted to have obtained of the martyrs and confessors. This occasioned, he says, great seditions and tumults: for in many cities throughout the province of Carthage the people rose up in multitudes against their bishops, and by their clamours compelled them to grant them instantly that peace which, they all said, the martyrs and confessors had given them. They, who had not courage enough and strength of faith to resist them, were by this means terrified and subdued into a compliance with them. And he had much ado himself to withstand them at Carthage: for some turbulent men, who were hardly governable before, and thought it much to be kept back from communion till he returned out of exile, when they had gotten these letters of the martyrs, were all in a flame upon the strength of them, and began to rage immoderately, and in an extorting manner demand the peace, which, they said, the martyrs had granted them.

By this representation of Cyprian, and his remonstrance upon it, it is easy to discern what mischief the abusing this privilege of the martyrs did to the true exercise of discipline;

[17] Ep. 23. [al. 27.] ad Cler. Rom. p. 52. (p. 206.) Postquam vero ad eos literas misi, ut, quasi moderatius aliquid et temperantius fieret, universorum confessorum nomine idem Lucianus epistolam scripsit, qua pene omne vinculum fidei, et timor Dei, et mandatum Domini, et Evangelii sanctitas et firmitas solveretur. Scripsit enim, omnium nomine, universis eos pacem dedisse; et hanc formam per me aliis episcopis innotescere velle, cujus epistolæ exemplum ad vos transmisi. Additum est plane, *De quibus ratio constiterit, quid post commissum egerint* Quæ res majorem nobis conflat invidiam, ut nos cum singulorum causas audire et excutere cœperimus, videamur multis negare, quod se nunc omnes jactant a martyribus et confessoribus accepisse. . . . In provincia nostra per aliquot civitates in præpositos impetus per multitudinem factus est, et pacem, quam semel cuncti a martyribus et confessoribus datam clamitabant, confestim sibi repræsentari coëgerunt; territis et subactis præpositis suis, qui ad resistendum minus virtute animi et robore fidei prævalebant. Apud nos etiam quidam turbulenti, qui vix a nobis in præteritum regebantur, et in nostram præsentiam differebantur, per hanc epistolam, velut quibusdam facibus accensi, plus exardescere et pacem sibi datam extorquere cœperunt.

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whilst some out of lucre, others out of terror, complied with the lapsers' unreasonable demands, and let the rich and the great escape punishment, and intrude themselves into the communion of the Church again without any sufficient evidences of repentance: but they, who, like Cyprian, had integrity and firmness enough to oppose these impious practices, kept up the discipline of the Church in its true vigour, and would hearken to no pretences or conditions of this kind, which only tended to impose upon them with false shows of a deceitful peace, and profane the mystery of the holy sacrament by giving it to the impenitent and the ungodly.

Magistrates and princes subject to ecclesiastical censures, as well as any others.

5. Neither was it only men in a private condition they thus treated, but also those of the highest rank and dignity. For the civil magistrates and princes were subject to ecclesiastical censures as well as any others. In the times of persecution the very taking of some civil offices made Christians liable to excommunication. Particularly if they took upon them the office of the *duumviri*, or the provincial office of the *flamines* or *sacerdotes provinciarum:* because, as Gothofred[18] shows out of many laws of the Theodosian Code, these offices obliged them to exhibit the usual games or shows to the people: which in time of Heathenism could not be done without involving them in some measure in the guilt of idolatry, to which those games were consecrated. For which reason any Christian undertaking such an office was reputed an encourager and partaker of idolatry, though he did not actually sacrifice to idols in his office. Upon which account the Council of Eliberis, which was held in time of persecution, anno 305, or thereabouts, orders[19], 'that if any Christian took upon him the office of a *flamen*, though he did not sacrifice, but only exhibit the idolatrous shows to the people, he should be kept under strict penance all his life, and only be admitted to communion at his death; and that in consideration that he had abstained

[18] Paratitlon ad Cod. Theod. l. 15. tit. 5. de Spectaculis. (t. 5. p. 348.) Edebantur autem spectacula vel a magistratibus. 1. Duumviris..... seu a curiarum primatibus viris .... 2. Vel a sacerdotibus provinciarum, &c.

[19] C. 3. (t. 1. p. 971 a.) Flamines, qui non immolaverint, sed munus tantum dederint, eo quod se a funestis abstinuerunt sacrificiis, placuit in fine eis præstari communionem, acta tamen legitima pœnitentia.

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from offering the abominable sacrifices:' for if he had offered sacrifice, then by the preceding canon[20] he was denied communion to the very last. Nay, though they had neither sacrificed, nor exhibited the shows out of their expense to the people, but only worn the crown in their office, by two other canons of the same Council[21] they were to be denied the communion for a year or two. So that the being in a public office was so far from exempting a magistrate from the censures of the Church, that in many cases it was the very reason why they were executed with greater severity upon him, whilst no man could go through such an office without the guilt and stain of idolatry in some measure sticking to him. And when these offices were freed from idolatry, yet if a magistrate still committed other crimes worthy of ecclesiastical punishment, the censures of the Church, notwithstanding his office, would lay hold of him, and the name or character of a magistrate would give him no protection. This appears plainly from the proceedings of Synesius[22] against Andronicus, the governing magistrate of Ptolemais, whom he formally excommunicated with all his accomplices: and from what has been observed before[23] of the judge that was censured in the time of Julian, mentioned by St. Ambrose[24]; and of Athanasius excommunicating the governor of Libya for his immoralities, mentioned by St. Basil[25], which need not here be repeated. To these I add that general rule of the first Council of Arles[26], made with relation to all governors of provinces, that when they went to the government of any province, 'they should take communicatory letters from their

[20] C. 2. (ibid. p. 969 e.) Flamines, qui post fidem lavacri sacrificaverunt, placuit nec in fine eos accipere communionem.

[21] C. 55. (ibid. p. 976 d.) Sacerdotes, qui tantum coronam portant, nec sacrificant, nec de suis sumptibus aliquid ad idola præstant, placuit post biennium accipere communionem.—Conf. c. 56. (ibid. d.) Magistratum vero, qui agit duumviratum, uno anno prohibendum placuit, ut se ab ecclesia cohibeat.

[22] Ep. 58. (p. 203 a. 5.) See before, ch. 2. s. 8. p. 87. n. 72.

[23] See ch. 2. s. 11. p. 97.

[24] Ep. 29. ad Theodos. See before, ch. 2. s. 11. p. 101. n. 21.

[25] Ep. 47. [al. 61.] See before, ibid. n. 22.

[26] C. 7. (t. 1. p. 1427 e.) De præsidibus placuit, ut, cum promoti fuerint, literas accipiant ecclesiasticas communicatorias: ita tamen ut, in quibuscunque locis gesserint, ab episcopo ejusdem loci cura de illis agatur; ut [al. et] cum cœperint contra disciplinam [publicam] agere, tum demum a communione excludantur. Similiter et de his [fiat], qui rempublicam agere volunt.

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own bishop along with them, and be subject to the care of the bishop of the places wherever they went; so as if they committed any thing contrary to the public discipline, they were to be excluded from the communion of the Church.'

This was no rule to deprive magistrates of their office, though they were heretics or schismatics, as Baronius[27] would have it understood: for, as Albaspiny in his Notes upon the place[28] more truly observes against him, 'there is not a word about this in the canon: neither is it likely that a provincial Council should make a decree about that which is no way in their power, but in the power of the prince only. They might order, and that with good reason,' he says, 'that no heretic or schismatic, although he was the governor of a province, should be admitted to communicate with the Church: but that therefore he should be removed from his government because he was an heretic, was at the will and discretion of the prince, and not of the Church: it belongs to the prince and not the Church to take away the power of subordinate magistrates from them.' The plain drift therefore of this canon is not to deprive inferior magistrates of any civil power or jurisdiction which the supreme magistrate committed to them, which the Church had no authority to do, but only to deny them her own communion, if unworthy of it; which was a thing then uncontested, and indisputably within the limits of her power. Neither need we wonder at this, since the Church laid claim to an higher power, even of excluding princes or the supreme magistrates from her communion, when guilty of notorious violations of the laws of Christian society; of which there are

[27] An. 314. n. 57. (t. 3. p. 137 d.) De præsidibus, &c. . . . . Hactenus divina illa plane lex ecclesiastica in tam celebri episcoporum conventu, præsente, rogante, ut par est credere, atque annuente imperatore sancita, qua schismatici atque hæretici a præfecturis cæterisque magistratibus excludendi penitus forent.

[28] In c. 7. C. Arelatens. (t. 1. p. 1436 d.) Ne verbo quidem de schismaticis et hæreticis illo in canone agitur, aut quidquam aliud, quod probabilem hujusce sensus inducat suspicionem, reperiatur. Neque vero simile est, patres, qui in illa aderant provinciali synodo, suffragiis suis aliquid sanxisse, cujus observatio in eorum non esset, sed in principis potestate. Ne quis schismaticus aut hæreticus, quamvis esset provinciæ præses, cæterorum communioni sociaretur, decernere quidem et merito poterant: sed eo quod quispiam esset hæreticus, ut a reipublicæ administratione removeretur, principis, non ecclesiæ, erat judicium: illius profecto erat imperium præsidibus abrogare, non ecclesiæ.

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certain evidences both in the doctrine and practice of the ancient bishops of the Church.

The story which is related by Eusebius concerning the Emperor Philip, though disputed by many as to the truth of the fact, yet is a sufficient evidence of the opinion of Eusebius[29], who relates it. Now he tells us, 'There was a tradition that he was a Christian, and that on the vigil of the Passover he desired to communicate in prayers with the rest of the people: but that the bishop, who then presided, would not suffer him to enter, before he had confessed his crimes, and joined himself to those, who had sinned and stood in the place or order of the penitents. For otherwise he could not be received by him, for the many crimes which he had committed. Upon which the emperor willingly obeyed, demonstrating his sincere and religious disposition towards the fear of God by the tenour of his actions.' Some[30] question the truth of the story, and think that it is a mistake of Philip the Emperor for one Philip, the *Præfectus Augustalis* of Egypt, who was a Christian. Others[31] defend it as a true relation, only they think it was a transaction in private, which is the reason we have no account of it in Heathen story. But whether the fact was true or false, the reflection made upon it by Eusebius is of great moment in the present question. For he, supposing him to have been a

[29] L. 6. c. 34. (v. 1. p. 298. 8.) *Τοῦτον κατέχει λόγος Χριστιανὸν ὄντα, ἐν ἡμέρᾳ τῆς ὑστάτης τοῦ Πάσχα παννυχίδος, τῶν ἐπὶ τῆς ἐκκλησίας εὐχῶν τῷ πλήθει μετασχεῖν ἐθελῆσαι· οὐ πρότερον δὲ ὑπὸ τοῦ τηνικάδε προεστῶτος ἐπιτραπῆναι εἰσβαλεῖν, ἢ ἐξομολογήσασθαι, καὶ τοῖς ἐν παραπτώμασιν ἐξεταζομένοις, μετανοίας τε χώραν ἴσχουσιν, ἑαυτὸν καταλέξαι· ἄλλως γὰρ μὴ ἄν ποτε πρὸς αὐτοῦ, μὴ οὐχὶ τοῦτο ποιήσαντα, διὰ πολλὰς τῶν κατ' αὐτὸν αἰτίας παραδεχθῆναι. Καὶ πειθαρχῆσαί γε προθύμως λέγεται, τὸ γνήσιον καὶ εὐλαβὲς τῆς περὶ τὸν θεῖον φόβον διαθέσεως ἔργοις ἐπιδεδειγμένον.*

[30] Cave, Prim. Christ. part. 1. ch. 3. p. 48. (p. 22.) But notwithstanding the smoothness of the story, &c.

[31] Pagi, Crit. in Baron. an. 247. n. 6. [corrige, an. 244. n. 4.] ex Huet. Origenian. l. 1. c. 3. n. 12. (t. 1. p. 226.) Quam opinionem de conversione Philippi ad fidem nostram ab Eusebio hauserunt Paulus Orosius et Vincentius Lirinensis, a Baronio n. 8. citati, et ante illos divus Hieronymus, Libr. de Script. Eccles., cum de Origene loquitur. Mitto alios, qui serius floruere, qui alter alterum exscripsit. Doctissimus Huetius, Libr. 1. Origenian. c. 3. n. 12., autumat Philippum sub ipsa imperii sui initia Christi doctrinam secutum esse, quod in cœtum Christianorum jam creatus imperator recipi postulaverit Antiochiæ, quo non nisi post arreptum recens imperium sese usquam contulit. Denique Baronius, cui in prima hujus voluminis editione adhæsi, arbitratur eum, non nisi postquam ludos sæculares exhibuit, Christo nomen dedisse.

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Christian, says, 'without such a compliance the bishop would never have admitted him.' Which remark is sufficient to show the nature of the Church's discipline in general, whatever becomes of the truth of this particular story.

Filesacus[32] and Valesius[33] confound this story with the relation, which St. Chrysostom gives of Babylas denying entrance into the church to one of the Roman emperors, upon the account of a barbarous murder committed by him upon a son of some confederate prince, who was entrusted as an hostage with him. Chrysostom names neither the emperor nor confederate prince, and the stories differ in the whole relation, but especially in this material circumstance, that Philip is said to comply with the bishop's admonition and stand in the order of penitents; but he, whom Chrysostom speaks of, was so far from submitting to the admonition of Babylas, that he remained incorrigible, and grew enraged, and cast him into prison, and loaded him with chains, which the martyr ordered to be buried with him, when the tyrant put him to death. So that this could not be Philip, but Decius, the persecuting Heathen, under whom Babylas suffered.

However Chrysostom makes some curious remarks upon the behaviour of Babylas, both in reference to his courage and prudence, which abundantly show the spirit of discipline then prevailing in the Church.

1. For, first, he remarks[34], that Babylas acted with the

[32] In Vincent. Lirinens. c. 23. n. 125. (p. 196.) Is est Philippus imperator, qui B. Babylam, episcopum Antiochenum et postea martyrem, interfici mandavit, ut habet S. Chrysostomus adversus Gentiles, seu de S. Babyla, &c.

[33] In Euseb. l. 6. c. 34. (v. 1. p. 298. n. 3.) Historiam hanc de Philippo imperatore, quem Babylas episcopus ab ecclesiæ aditu repulit, refert auctor Chronici Alexandrini ex narratione Leontii episcopi Antiocheni, qui sub Constantio imp. vixit. Eadem fere narrat Chrysostomus in Oratione de Sancto Babyla contra Gentiles, nisi quod imperatorem ipsum non nominat.

[34] De Babyla, cont. Gentil. t. 1. p. 740. (t. 2. p. 544 d.) Οὗτος τοίνυν τότε τοῦ Χριστοῦ τὴν ἐκκλησίαν, τὴν ἐνθάδε, ὑπὸ τῆς τοῦ Πνεύματος χάριτος ἐγχειρισθεὶς, τὸν Ἠλίαν, καὶ τὸν τούτου ζηλωτὴν τὸν Ἰωάννην... ἔφθασε... οὕτως, ὡς μηδὲ τὸ τυχὸν ἀπολειφθῆναι τῆς ἐλευθερίας τῶν γενναίων ἐκείνων ἀνδρῶν· οὐ γὰρ τετράρχην πόλεων ὀλίγων, οὐδὲ ἑνὸς ἔθνους βασιλέα, ἀλλὰ τὸν τοῦ πλείστου μέρους [al. τὸ πλεῖστον μέρος] τῆς οἰκουμένης ἁπάσης κατέχοντα, αὐτὸν δὴ τοῦτον τὸν ἀνδροφόνον, καὶ πολλὰ μὲν ἔθνη, πολλάς τε πόλεις καὶ στρατιὰν ἄπειρον κεκτημένον, καὶ πάντοθεν ὄντα φοβερὸν, ἀπό τε τοῦ μεγέθους τῆς ἀρχῆς, ἀπό τε τῆς τῶν τρόπων θρασύτητος, ὡς ἀνδράποδον εὐτελὲς καὶ οὐδενὸς ἄξιον [λόγου], οὕτω τῆς ἐκκλησίας ἐξέβαλε μετὰ τοσαύτης ἀταραξίας καὶ ἀφοβίας, μεθ' ὅσης ἂν ποιμὴν πρόβα-

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freedom and boldness of Elias and St. John Baptist, driving out of the Church, not a tetrarch of a few cities, nor a king of one nation, but him, who governed the greatest part of the world; a murderer, who had many nations, many cities, and a prodigious army at his command; one that was in all respects terrible, as well upon the account of his immense dominions, as the fierceness and cruelty of his temper: him he expelled as a vile and worthless slave, with as much intrepidity, constancy, and bravery of mind, as a shepherd would drive away from his flock a scabbed and infected sheep, to prevent the contagion of the distemper from spreading among the rest of the flock. Here he breaks out into a rapture[35], admiring his undaunted mind, his lofty soul, his heavenly terror of spirit and angelical constancy, superior to all this visible world, and only fixed upon God the Supreme King; acting as if he stood before the great judge, and heard him say, Cast out the wicked and infected sheep from the holy flock.

2. Hence he observes, secondly[36], how fearless and undaunted Babylas must be with respect to other men, who gave such a specimen of his power over the emperor. He could never act or speak out of favour or hatred; but with a mind equally fortified against fear and flattery, and all other things of the like nature, which are apt to beset men, he stood firm, and did not in the least corrupt right judgment.

3. He remarks further[37], how he tempered his courage

τον, ψώρας ἐμπεπλησμένον καὶ νενοσηκὸς, τῆς ποίμνης ἀπείρξειε, κωλύων εἰς τὰ λοιπὰ διαβῆναι τὴν νόσον τοῦ κάμνοντος.

[35] Ibid. (p. 545 e. et p. 546 b.) *Ὦ ψυχῆς ἀκαταπλήκτου, καὶ διανοίας ὑψηλῆς· ὦ φρενῶν οὐρανίων καὶ παραστήματος ἀγγελικοῦ· . . . . ὡς ἐκείνῳ τῷ δικαστῇ παρεστὼς, καὶ αὐτοῦ κελεύοντος ἀκούων, τὸν ἐναγῆ καὶ μιαρὸν τῆς ἱερᾶς ἀγέλης ἐξωθεῖν, οὕτως ἐξέβαλε, καὶ τῶν λοιπῶν προβάτων ἀφώρισε· καὶ πρὸς οὐδὲν ἐπεστρέφετο τῶν ὁρωμένων καὶ δοκούντων εἶναι φοβερῶν, ἀλλ' ἀνδρείως αὐτὸν μάλα καὶ γενναίως ἀπωσάμενος, παρέστη τυραννουμένοις τοῖς τοῦ Θεοῦ νόμοις.*

[36] Ibid. (p. 546 b.) *Καί τοι πόσῃ περὶ τοὺς λοιποὺς αὐτὸν παρρησίᾳ κεχρῆσθαι εἰκός; Ὁ γὰρ τῷ κρατοῦντι μετὰ τοσαύτης ἐξουσίας προσενεχθεὶς, τίνα τῶν λοιπῶν ἔδεισεν ἄν; Ἐγὼ τὸν ἄνδρα ἐκεῖνον στοχάζομαι, ἀλλὰ μᾶλλον δὲ οὐ στοχάζομαι πιστεύω, μὴ πρὸς χάριν, μὴ πρὸς ἀπέχθειαν, μήτε πρᾶξαι, μητὲ εἰπεῖν τί πότε· ἀλλὰ καὶ πρὸς φόβον, καὶ πρὸς τὴν τούτου δυνατωτέραν κολακείαν, καὶ πρὸς τὰ ἄλλα τὰ τοιαῦτα, πολλὰ δὲ τὰ ἀνθρώπινα, γενναίως στῆναι καὶ ἀνδρείως, καὶ μηδὲ μικρόν τι τῆς ὀρθῆς διαφθεῖραι κρίσεως.*

[37] Ibid. (c.) *Οὐδὲ γὰρ ἐπὶ τῇ παρρησίᾳ μόνον αὐτὸν θαυμάζειν χρὴ, ἀλλὰ καὶ ἐπὶ τῷ μέχρι τοσούτου τὴν παρρησίαν ἐκτεῖναι, καὶ ἐπὶ τῷ πάλιν μηδὲν προσθεῖναι πλέον αὐτῇ· τοιαύτη γὰρ ἡ τοῦ Χριστοῦ σοφία, μήτε ἐλλειπῶς μήτε περιττῶς ἀγωνίζεσθαι συγχω-*

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with Christian prudence, observing a decent mean in his behaviour. A man of his undaunted spirit might have gone much further. He might have railed at the emperor, and reviled him; he might have pulled the crown from his head, and have beaten him on the face: but his soul was seasoned with spiritual salt, which taught him to observe a decorum in all his management, and do nothing rashly or foolishly, but by the rules of right reason, which was a thing the philosophers in their reproofs of kings seldom observed.

4. Hence he remarks once more[38], of how great advantage this example was to all men, both believers and unbelievers. The unbelievers were astonished at the action, and admired it: for they seeing the intrepidity of the servants of Christ, could not but deride the abject servility of those who ruled in the Heathen temples, when they observed them always more disposed to worship their kings, than their gods or idols. Whereas Babylas punished the injurious king, as far as it was lawful for a priest to do[39]; he pulled down the high spirit of the prince; he vindicated the divine laws when they were violated; he

ροῦσα, ἀλλὰ πανταχοῦ τὴν συμμετρίαν φυλάττουσα. Καί τοί γε ἐνῆν, εἴπερ ἐβούλετο, καὶ περαιτέρω προελθεῖν· τῷ γὰρ ἀπαγορεύσαντι τὸ ζῆν οὐδ' ἂν τὴν ἀρχὴν προσῆλθεν, εἰ μὴ τοιούτοις αὐτὸν ὥπλισε λογισμοῖς· μετ' ἐξουσίας ἅπαντα πράττειν ἐξῆν, καὶ ὕβρεσι πλύναι τὸν βασιλέα, καὶ τὸ διάδημα καθελεῖν τῆς κεφαλῆς, καὶ πληγὰς εἰς τὸ πρόσωπον ἐντεῖναι.... Ἀλλ' οὐδὲν τούτων ἐποίησε· τῷ γὰρ ἅλατι τῷ πνευματικῷ τὴν ψυχὴν ἠρτυμένος ἦν· δι' ὅπερ οὐδὲν ἔπραττεν εἰκῇ καὶ μάτην, ἀλλὰ πάντα κρίσει λογισμῶν ὀρθῇ, καὶ μετὰ καταστάσεως ὑγιοῦς· οὐ καθάπερ οἱ παρ' Ἕλλησι σοφοὶ, οἱ συμμέτρως μὲν οὐδέποτε, πανταχοῦ δὲ, ὡς εἰπεῖν, ἢ πλέον ἢ ἔλαττον τοῦ δέοντος παρρησιάζονται.

[38] Ibid. (p. 547 e.) *Οἱ δὲ δι' αὐτοῦ* [al. *ἐκείνου*] *κερδαίνοντες πολλοί.... Ὅσοι περ ἂν ἦσαν ἄπιστοι κατεπλάγησαν, καὶ ἐθαύμασαν, μαθόντες ὅσης τοῖς ἑαυτοῦ δούλοις ὁ Χριστὸς τῆς παρρησίας μετέδωκε· κατεγέλασαν τῆς παρ' αὐτοῖς δουλοπρεπείας, καὶ ἀνελευθερίας, καὶ ταπεινότητος· εἶδον ὅσον τῆς Χριστιανῶν εὐγενείας πρὸς τὴν Ἑλλήνων αἰσχύνην τὸ μέσον· οἱ μὲν γὰρ παρ' αὐτοῖς τὴν τῶν ἱερῶν ἐπιμέλειαν ἐγκεχειρισμένοι, μᾶλλον δεσποτῶν καὶ τῶν εἰδώλων δὲ αὐτῶν τοὺς βασιλεῖς θεραπεύουσι, καὶ διὰ τὸν ἐκείνων φόβον καὶ τοῖς ξοάνοις αὐτοῖς παρεδρεύουσιν, ὡς τοὺς πονηροὺς δαίμονας τοῖς βασιλεῦσι χάριν ἔχειν τῆς εἰς αὐτοὺς τιμῆς.*

[39] [Ibid. (p. 550 a.) *Τέως δὲ τὸν ὑβριστὴν ἐκόλασε, καὶ ταύτῃ ᾗ τὸν ἱερέα κολάζειν θέμις ἐστὶ, τὰ τῶν ἀρχόντων κατέστειλε φρονήματα, τοῖς τοῦ Θεοῦ νόμοις κινουμένοις ἐπήμυνε, τιμωρίαν ὑπὲρ τοῦ κακῶς σφαγέντος ἀπῄτησε, τὴν πασῶν τιμωριῶν χαλεπωτέραν τοῖς γε νοῦν ἔχουσι.... Δίκην ἐπέθηκεν αὐτῷ τε πρέπουσαν, κἀκεῖνον ἐπιστρέψαι ἱκανὴν, εἰ μὴ λίαν ἀναίσθητος ἔτυχεν ὢν, οὐχ ἡλίῳ θερομένῳ αὐτῷ τὸν βασιλέα ἐπισκοτοῦντα ἀποστῆσαι ἀξιῶν, ἀλλ' ἀναιδῶς τοῖς ἱεροῖς ἐπιπηδῶντα περιβόλοις, καὶ πάντα συγχέοντα, καθάπερ τινὰ κύνα καὶ οἰκέτην ἀγνώμονα τῶν δεσποτικῶν ἀπείργων αὐλῶν.* Grischov.]

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punished the king for his murder with a punishment, that to all men of a sound mind is the most terrible of any other. He did not, like Diogenes, bid him stand out of his sunshine; but when he thrust himself impudently within the sacred boundaries of the church, and confounded all good order, he drove him from his Master's house, as he would have done a dog, or an offending slave. And so the holy man took down the confidence of unbelievers, who were then the greatest part of the Roman empire. And for those who had already embraced the faith of Christ[40], he by this act made them more circumspect and religious; not only private men, but soldiers, captains, and generals; showing them that among Christians the prince and chief of all are but names, and that he that wears the crown, when he is to be punished and rebuked, is no more considered than one of the lowest order.

5. Hence he concludes[41], lastly, that this rare example of virtue was matter of instruction both to priests and princes, to teach princes to submit to the rules of discipline, and priests to take courage in the exercise of it: forasmuch as that the care of the world, and what is done in it, is as properly committed to them, as to him that wears the purple: and that they ought rather to part with their lives, than part with or diminish that power and authority which God from above has committed to them.

Any one may perceive by this discourse of St. Chrysostom, what opinion he had of the power and extent of ecclesiastical discipline, even over sovereign princes: not to pull off their crowns, and dethrone them; not to ravish away their temporal power, under the pretence of the spiritual power being superior; nor yet to speak evil of dignities, or treat them unmannerly,

[40] Ibid. t. 1. p. 747. (p. 550 d.) *Τοὺς μὲν οὖν ἀπίστους οὕτω συνέστειλεν ὁ μακάριος, τοὺς δὲ πιστοὺς εὐλαβεστέρους κατέστησεν, οὐκ ἰδιώτας μόνον, ἀλλὰ καὶ στρατιώτας καὶ στρατηγούς, καὶ ὑπάρχους, δείξας ὅτι ὁ βασιλεὺς, καὶ ὁ πάντων ἔσχατος παρὰ Χριστιανοῖς, ὀνόματα μόνον ἐστὶ, καὶ τῶν ἐλαχίστων ὁ τὸ διάδημα ἔχων οὐκ ἔσται σεμνότερος, ὅτ' ἂν κολάζεσθαι καὶ ἐπιτιμᾶσθαι δέῃ.*

[41] Ibid. t. 1. p. 749. (p. 551 a.) *Ἔστι τι καὶ τρίτον κατόρθωμα οὐ τὸ τυχόν· τῶν γὰρ μετὰ ταῦτα ἱερᾶσθαι καὶ βασιλεύειν μελλόντων τὰ φρονήματα, τῶν μὲν κατέστειλε, τῶν δὲ ἐπῆρεν ἀποφήνας, ὅτι τῆς γῆς καὶ τῶν ἐν τῇ γῇ πραττομένων κυριώτερος ἐπίτροπος ὁ τὴν ἱερωσύνην λαχὼν τοῦ τὴν ἀλουργίδα ἔχοντός ἐστι· καὶ χρὴ τῆς ἐξουσίας ταύτης τὸ μέγεθος μὴ ἐλαττοῦν, ἀλλὰ τῆς ψυχῆς ἐξίστασθαι πρότερον, ἢ τῆς αὐθεντίας, ἣν ὁ Θεὸς ἄνωθεν ταύτῃ συνεκλήρωσε τῇ ἀρχῇ.*

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and revile them; but only to debar them from the communion of the Church, when by notorious wickedness they rendered themselves altogether unworthy, and really incapable of it. Which is agreeable to that general direction he gives in another place to the clergy, not to admit any one of notorious improbity, cruelty, or impurity to the Lord's table: 'Although it be a commander,' says he [42], 'or a governor, or even he that wears the diadem, that comes unworthily, prohibit him: thou hast greater power than he.' He adds a little after [43], 'if thou art afraid to do this, bring him unto me. I will not suffer any such thing to be done: I will sooner give my own life, than the body of the Lord unworthily: I will shed my own blood, before I will give that most holy blood to an unworthy man.'

But there is none more famous than St. Ambrose for his remarkable freedom in this matter with the greatest of princes, whether in admonishing them, or in denying them the communion upon the commission of some great offences. Paulinus [44], the writer of his Life says, he separated Maximus from the communion, admonishing him to repent for shedding the blood of Gratian his lord, if ever he hoped to find mercy at the hands of God. So, when Valentinian was solicited by Symmachus, the Heathen governor of Rome, to restore the Gentile rites, and suffer the altar of Victory to be repaired in the Capitol, St. Ambrose [45] wrote to him, and told him, among many other arguments, 'that, if he thus gratified the Heathen in restoring idolatry, the bishops could not bear or dissemble it with a

[42] Hom. 82. [al. 83.] in Matth. 705. (t. 7. p. 789 c.).. Κἂν στρατηγὸς τὶς ᾖ, κἂν ὕπαρχος, κἂν αὐτὸς ὁ τὸ διάδημα περικείμενος, ἀναξίως δὲ προσείῃ, κώλυσον· μείζονα ἐκείνου τὴν ἐξουσίαν ἔχεις.

[43] [Ibid. (p. 790 b.) Εἰ δὲ αὐτὸς οὐ τολμᾷς, ἐμοὶ πρόσαγε, οὐ συγχωρήσω ταῦτα τολμᾶσθαι· τῆς ψυχῆς ἀποστήσομαι πρότερον, ἢ τοῦ σώματος [Bened. αἵματος] μεταδώσω τοῦ Δεσποτικοῦ παρ' ἀξίαν· καὶ τὸ αἷμα τὸ ἐμαυτοῦ προήσομαι πρότερον, ἢ μεταδώσω αἵματος οὕτω φρικώδους παρὰ τὸ προσῆκον. *Grischov.*]

[44] Vit. Ambros. (t. 2. præfix. append. p. 6 a.n. 19.) Ipsum vero Maximum a communionis consortio segregavit, admonens ut effusi sanguinis domini sui.... ageret pœnitentiam, si sibi apud Deum velet esse consultum.

[45] Ep. 30. [al. 17.] ad Valentin. Jun. (t. 2. p. 827 a. nn. 13, 14.) Certe.... episcopi hoc æquo animo pati et dissimulare non possunt [al. possumus]. Licebit tibi ad ecclesiam convenire: sed illic non invenies sacerdotem, aut invenies resistentem. Quid respondebis sacerdoti dicenti tibi, Munera tua non quærit ecclesia, quia templa Gentilium muneribus adornasti? Ara Christi dona tua respuit, quoniam aram simulacris fecisti.

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patient mind. He might, if he pleased, come to church, but he would either find no priest there, or else only one to resist him, and deny him communion.' 'And what will you answer,' says he, 'to the priest, when he tells you the Church desires not your oblations or gifts, because you have adorned the temples of the Gentiles with your gifts? The altar of Christ refuses your gifts, because you have erected an altar to the idol gods.'

But the most remarkable instance of his freedom was shown in his treatment of Theodosius the Great, after he had inhumanly put to death seven thousand men at Thessalonica, without distinguishing the innocent from the guilty. When he had committed this fact, not being very sensible of his crime, he came to Milan, and according to custom was going to church; but St. Ambrose met him at the gate, and accosted him in this manner, as Theodoret[46] relates the story: 'You seem not to understand, Sire, the greatness of the murder you have committed. Your anger not being yet allayed, hinders your reason from considering what you have done; and perhaps the greatness of your empire will not suffer you to acknowledge your offence, and power opposes itself to reason. But you must know, that our nature is mortal and frail: our original is dust, whence we were taken, and into which we must return again. It is not fit you should deceive yourself with the

[46] L. 5. c. 18. (v. 3. p. 215. 31.) *Οὐκ οἶσθα ὡς ἔοικεν, ὦ βασιλεῦ, τῆς εἰργασμένης μιαιφονίας τὸ μέγεθος, οὐδὲ μετὰ τὴν τοῦ θυμοῦ παῦλαν ὁ λογισμὸς ἐπέγνω τὸ τολμηθέν. Οὐκ ἐᾷ γὰρ ἴσως τῆς βασιλείας ἡ δυναστεία ἐπιγνῶναι τὴν ἁμαρτίαν, ἀλλ' ἐπιπροσθεῖ ἡ ἐξουσία τῷ λογισμῷ. Χρὴ μέν τοι εἰδέναι τὴν φύσιν, καὶ τὸ ταύτης θνητόν τε καὶ διαρρέον, καὶ τὸν πρόγονον χοῦν, ἐξ οὗ γεγόναμεν, καὶ εἰς ὃν ἀπορρέομεν· καὶ μὴ τῷ ἄνθει τῆς ἀλουργίδος ἀποβουκολούμενον ἀγνοεῖν τοῦ καλυπτομένου σώματος τὴν ἀσθένειαν. Ὁμοφυῶν ἄρχεις, ὦ βασιλεῦ, καὶ μὲν δὴ καὶ ὁμοδούλων. Εἷς γὰρ ἁπάντων Δεσπότης καὶ Βασιλεὺς, ὁ τῶν ὅλων Δημιουργός. Ποίοις τοίνυν ὀφθαλμοῖς ὄψει τὸν τοῦ κοινοῦ Δεσπότου νέων; ποίοις δὲ ποσὶ τὸ δάπεδον ἐκεῖνο πατήσεις τὸ ἅγιον; πῶς δὲ τὰς χεῖρας ἐκτενεῖς, ἀποσταζούσας ἔτι τοῦ ἀδίκου φόνου τὸ αἷμα; πῶς δὲ τοιαύταις ὑποδέξῃ χερσὶ τοῦ Δεσπότου τὸ πανάγιον σῶμα; πῶς δὲ τῷ στόματι προσοίσεις τὸ αἷμα τὸ τίμιον, τοσοῦτον διὰ τὸν τοῦ θυμοῦ λόγον ἐκχέας παρανόμως αἷμα; Ἄπιθι τοίνυν, καὶ μὴ πειρῶ τοῖς δευτέροις τὴν προτέραν αὔξειν παρανομίαν, καὶ δέχου τὸν δεσμὸν, ᾧ ὁ Θεὸς, ὁ τῶν ὅλων Δεσπότης, ἄνωθεν γίνεται σύμψηφος· ἰατρικὸς δὲ οὗτος, καὶ πρόξενος ὑγιείας, κ. τ. λ.* [Conf. Augustin. Hom. 49. ex 50. t. 10. p. 202. [al. Serm. 392.] (t. 5. p. 1504 f, g.) Fortassis..... propterea Deus voluit ut Theodosius imperator ageret pœnitentiam publicam in conspectu populi, maxime quia peccatum ejus celari non potuit; et erubescit senator, quod non erubuit imperator? Erubescit, nec senator, sed tantum curialis, quod non erubuit imperator? &c. Ed.]

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splendour of your purple, and forget the weakness of the body that is covered with it. Your subjects, Sire, are of the same nature with yourself, and you are a servant as well as they: for we have one common Lord, and King, the Maker of this universe. Therefore with what eyes will you look upon the house of our common Lord? with what feet will you tread his holy pavement? will you stretch forth those hands still dropping with the blood of that unjust murder, and therewith take the holy body of the Lord? and then put the cup of that precious blood to your mouth, who have shed so much blood by the hasty decree of an angry mind? Depart, I beseech you, and do not aggravate and augment your former iniquity by the addition of a new crime. Refuse not those bonds which the Lord of all confirms from heaven above. It is but a small thing that is laid upon you, but it will recover you to perfect health and salvation.' The emperor, who had been educated in the holy doctrine, and knew what were the different offices of priests and kings, was so moved with these words, that he returned to his palace with groans and tears. Eight months passed between this and the festival of our Saviour's nativity, and all that time the emperor sat lamenting in his own palace, and shedding rivers of tears. Which Ruffin, the master of the palace, who for his familiarity with the emperor could take a great freedom with him, observing, came to him, and desired to know the reason of his tears. To whom the emperor replied, 'You make a jest of the thing, Ruffin: for you are not touched with the sense of my misfortunes; but I mourn and lament in consideration of my calamity, that whilst the temple of God is open to the very slaves and beggars, and they can go in freely, and supplicate their Lord, it is inaccessible to me; and besides all this, heaven is shut against me: for I remember the words of our Lord, which plainly say, Whomsoever ye shall bind on earth, he shall be bound in heaven.' Then Ruffin said, 'I will go therefore to the bishop, if you please, and entreat him to loose your bonds.' The emperor replied, 'He will not be persuaded. For I know the justice of the sentence which St. Ambrose has given, and he will not, out of any reverence to the imperial power, transgress the divine law.' But, Ruffin insisting, and with many words promising to appease Ambrose towards him, he bid him go quickly, and he

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himself followed a little after, relying upon the promises of Ruffin. But St. Ambrose no sooner saw Ruffin, but he said to him, 'Ruffin, thou art a very shameless man. For thou wast the evil counsellor of so great a slaughter, and now thou hardenest thy forehead, and hast cast away shame, neither blushing, nor trembling for so great a ravagement made of the image of God.' Ruffin still went on with his supplication, and told him the emperor himself was coming. At which Ambrose kindled with a divine fervour and said, 'I tell thee beforehand, Ruffin, I will not admit him within the divine gates: but and if he will turn his empire into tyranny and slay me also, I shall with great pleasure take my death.' Ruffin hearing this sent one immediately to the emperor, to certify him of the bishop's resolution, and to desire him to stay in the palace: but the emperor being on his way in the middle of the forum, when he received the message, said, 'I will go and bear his just reproofs.' When he came to the holy boundaries he would not enter into the church, but going to the bishop, as he sat in the saluting house, he begged of him to absolve him from his bonds. But Ambrose told him, 'this his coming was tyrannical; and that he now began to rage against God, and trample upon the divine laws.' The emperor said, 'By no means: I do not offer myself against the prescript of the laws, I do not desire to enter the church in an unlawful manner; but I entreat you to absolve me from my bonds, and to remember the clemency of our common Lord, and not shut the gate against me, which the Lord hath opened to all those that turn to him with repentance.' 'What repentance then,' said the bishop, 'have you shown since the commission of so great a wickedness? with what medicine have you cured your grievous wounds?' The emperor replied, 'It belongs to your office to prepare the medicine, and cure those wounds, and my part is to use what you prescribe.' Then said Ambrose, 'Forasmuch as you have suffered anger and fury, and not reason, to sit in judgment and give sentence in matters before, now make a law, which may render all judgment given in anger null and void. When any sentence of death or confiscation is pronounced, let there be thirty days' time between that and the execution, to wait for the judgment of reason. When this term is expired, let the scribes again present the sentence you have given before you, and

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then reason without anger will be able to examine the sentence by her own judgment, and discern whether it be just or unjust. If it be unjust, cancel and reverse it: if just, corroborate and confirm it; and this number of days will be no prejudice to any righteous sentence.' The emperor approved of the proposal, and immediately ordered such a law to be written, and confirmed it with his own hand. Then St. Ambrose absolved him from his bonds, and the emperor took courage to enter into the church: but he would neither stand nor kneel, while he made supplication to the Lord, but fell upon his face to the earth, using those words of David, "My soul cleaveth to the ground, quicken thou me according to thy word!" and tearing his hair, and beating his forehead, and watering the pavement with drops of tears, with these indications of sorrow he prayed for pardon. And so when the time of the oblation came, he was admitted again to make his offering at the holy table.

I have related this matter at full length in Theodoret's words, because, as he there observes, it is such an illustrious instance of the virtue both of the bishop and the emperor, showing the freedom and flaming fervour of the one, and a great condescension, obedience, and purity of faith, in the other. Theodoret adds, 'that when the emperor was returned to Constantinople he was pleased to say he had now learned the difference between an emperor and a bishop; he had now at last found a guide to show him what was truth: for Ambrose alone was worthy the name of a bishop. So useful an impression,' says our author, 'does a reproof or admonition make when given by a man of shining virtue.'

After this it is needless to relate any later instances of this kind of discipline exercised upon princes: but it may be proper to remind the reader here again of that necessary distinction between the greater and lesser excommunication, the former of which separates a criminal from all manner of society with the faithful, the other only from communion and society in holy things in the church; and to observe with many learned men, that these excommunications of princes now mentioned never went further than to a prudent admonition and suspension of them from the sacrament and the holy offices of the Church. St. Ambrose, says Bishop Buckeridge[47] in answer to Bellarmin,

[47] Johannes Roffensis, De Potestate Papæ in Rebus Temporali-

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did plainly prohibit Theodosius from entering the church and partaking of the sacraments; but he neither delivered him to Satan, nor reduced him into the number of publicans or pagans, nor separated him from all society and communion with the faithful. If Bellarmin spake properly of the greater excommunication, the proof of a doubtful matter lies upon him; if only of the lesser excommunication or suspension, which forbids men entrance into the church and communion in the sacraments, we do not deny but that Theodosius was so excommunicated by St. Ambrose. For St. Ambrose[48] told him 'he durst not offer the sacrifice if he was present. He thought he saw him in a vision come to the church, and then he durst not celebrate because of his presence. He could not accept his oblation till he had power to offer, and till his offering would be acceptable to God.' He suspended him therefore from the sacrament, but did not lay upon him the *anathema* or greater excommunication. Bishop Taylor[49] takes excommunication in this sense when he says, 'If we consult the doctrine and practices of the

bus, l. 2. c. 39. n. 1. (p. 927.) Si ergo de excommunicatione majore proprie loquatur Bellarminus, incumbit ei probatio; sic enim excommunicatum fuisse dubitari potest. Si de excommunicationem minori, sive suspensione, quæ tantum limina ecclesiæ et sacramentorum communionem negat, loquatur, non negamus sic ab Ambrosio excommunicatum Theodosium. Vincula vero hæc, quibus ligatus est Theodosius, fuerunt vincula peccatorum, quæ ab Ambrosio retenta sunt. *Quidquid ligaveris in terra, ligatum erit in cœlis;* quæ verba et ad peccatorum retentionem et ad anathematis sive excommunicationis sententiam pertingunt. Excommunicatio ergo ista est minor, non major; id quod verba Ambrosii satis docent, lib. 5. epist. 28. ad Theodos., *Causam contumaciæ in te nullam habeo, sed habeo timoris: offerre non audeo sacrificia, si volueris assistere.* An excommunicatio ulla sine contumacia? Immo et se prohibitum docet visione, ne offerret: *Cum enim essem solicitus ipsa nocte, qua proficisci putabam, venisse quidem visus es ad ecclesiam, sed mihi sacrificium offerre non licuit.* Et infra: *Tunc offerres, cum sacrificandi acceperis facultatem, quando hostia tua accepta sit Deo.* Non ergo separatus est a consortio fidelium, nec Satanæ traditus, sed ligatus in peccato, donec condignam egerat pœnitentiam, et exclusus a liminibus et sacramentis ecclesiæ. In his aperte prohibet Ambrosius Theodosium ab ingressu ecclesiæ et communione sacramentorum, sed nec Satanæ tradit, nec in numerum publicanorum et ethnicorum redigit, nec cœtu et communione fidelium separat.—See Dr. Barrow of the Pope's Supremacy. (Works, at the end of v. 1. pp. 12, seqq.) I know Pope Gregory VII. to countenance him, &c.

[48] Ep. 28. [al. 51.] ad Theodos. (t. 2. p. 1000 b, c, d. n. 13–15.) Offerre non audeo sacrificium, si volueris assistere..... Venisse quidem visus es ad ecclesiam, sed mihi sacrificium offerre non licuit.... Tunc offerres, cum sacrificandi acceperis facultatem, quando hostia tua accepta sit Deo.

[49] Duct. Dubitant. b. 3. ch. 4. p. 604. (rule 7. s. 7. Works, v. 13. p. 595.) And if concerning this inquiry, &c

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Fathers in the primitive and ancient Churches we shall find that they never durst think of excommunicating kings. The first supreme prince that ever was excommunicated by a bishop was Henry the Emperor by Pope Hildebrand.' He adds 'that there is one portion of excommunication, which is denying to administer the holy communion to princes of a scandalous and evil life; and concerning this there is no question but the bishop not only may but in some cases must do it. Christ says, "Give not that which is holy unto dogs, and cast not pearls before swine." Whatsoever is in the ecclesiastical hand by divine right is as applicable to him that sits upon the throne as to him that sits upon the dunghill.' But then he says one thing which, as I conceive, contradicts this: viz.[50] 'that this refusing must be only by admonition and caution, by fears and denunciations evangelical, by telling him his unfitness to communicate, and his danger if he do: but if after this separation by way of sentence and proper ministry the prince will be communicated, the bishop has nothing else to do but to pray and weep and willingly to minister.' This not only contradicts what he just says before, 'that a bishop is obliged in duty to deny to administer the communion to princes of a scandalous and evil life,' but is directly contrary to the doctrine and practice of St. Chrysostom and St. Ambrose, who profess they would rather die than give the communion to a prince that was utterly incapable and unworthy of it.

In what cases the greater excommunication was forborne for the good of the Church.

6. Yet as to what concerns the greater excommunication, it is certain that in some cases it was forborne, not only with relation to princes, but the people also. For prudence directed them to do every thing for the good of the Church, and to use this severe weapon only to edification, and not to destruction. And therefore when it was apparent, or but highly probable, that the intemperate and indiscreet use of it might do more harm than good to the Church, there both reason and charity directed them to waive the use of it, for fear of rooting up the wheat with the tares before the proper time of judg-

[50] Ibid. p. 605. (ibid. s. 10. p. 598.) But then, &c.—See also his Worthy Communicant, ch. 5. s. 6. p. 487. (Works, v. 15. pp. 639 seqq.) Whether may every minister of the Church and curate of souls reject impenitent persons or any criminals from the holy sacrament, until themselves be satisfied of their repentance and amends?

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ment. As to princes, Dr. Barrow[51] in a few words, which contain a great deal of ancient history, has further observed, 'that though there were many sovereign princes in the primitive Church, who were heretics and enemies to true religion, yet no ancient pope seems to have been of opinion that they might excommunicate them. For if they might, why did not Pope Julius or Pope Liberius excommunicate Constantius, the great favourer of the Arians? How did Julian himself escape the censure of Liberius? Why did not Damasus thunder against Valens, that fierce persecutor of the Catholics? Why did not Damasus censure the Empress Justina, the patroness of Arianism? Why did not Siricius censure Theodosius for that bloody fact, for which St. Ambrose denied him the communion? How was it that Pope Leo, that stout and high pope, had not the heart to correct Theodosius Junior in his way, who was the supporter of his adversary Dioscorus, and the obstinate protector of the second Ephesine Council, which that pope so much detested? Why did not that pope rather compel that emperor by censures, than supplicate him by tears? How did so many popes connive at Theodoric and other princes professing Arianism at their door? Why did not Simplicius or Felix thus punish the Emperor Zeno, the supplanter of the Council of Chalcedon, for which they had so much zeal? Why did neither Felix, nor Gelasius, nor Symmachus, nor Hormisdas excommunicate the Emperor Anastasius, yea 'did not so much,' Pope Gelasius says, 'as touch his name,' for countenancing the Oriental bishops in their schism and refractory noncompliance with the papal authority? Those popes did indeed clash with their emperor, but they expressly deny, that they did condemn him with others whom he did favour.' 'We,' says Pope Symmachus[52], 'did not excommunicate you, O Emperor, but Acacius. If you mingle yourself, you are not excommunicated by us, but by yourself.' 'And,' says Gelasius[53], 'if the emperor is pleased to join himself with those

[51] Of the Pope's Supremacy. (Works, at the end of v. 1. p. 12.) Indeed ... it doth not seem to have been the opinion, &c.

[52] Ep. 7. [al. 6.] (CC. t. 4. p. 1298 e.) Nos te non excommunicavimus imperator, sed Acacium. ... Si te misces, non a nobis, sed a teipso excommunicatus es.

[53] Ep. 4. (ibid. p. 1168 b.) Si isti placet se miscere damnatis, nobis non potest imputari.

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that are condemned, that cannot be imputed to us.' Wherefore Baronius[54] doth ill in affirming Pope Symmachus to have anathematized Anastasius; whereas that pope plainly denied it even in those words, which are cited to prove it, being rightly read: for they are corruptly written, in Baronius[55] and Binius[56], *ego*, which hath no sense, or one contradictory to his former assertion, being put for *nego*, which is good sense, and agreeable to what he and the other popes do affirm in relation to that matter;'—that they did not pretend to anathematize the emperor with other heretics whom they so condemned. See Barrow.

Indeed there were three reasons why the Ancients forbore to anathematize sovereign princes. One was that, which has just now been mentioned, because they thought they had no power to excommunicate them in such manner, but only to deny them the participation of the eucharist. Another reason was, that heretical princes did in effect excommunicate themselves by deserting the Church, and joining with heretics, and therefore the Church had no reason to pronounce *anathema* against them. A third reason was, that the doing so might have done more harm than good to the Church, by irritating and exasperating the minds of heretical princes to persecute the Church with greater malice, and thereby many weak members of the Church might have been scandalized and offended. Therefore Bishop Buckeridge[57] says, 'In such

[54] An. 503. n. 17. (t. 6. p. 568 a.) Qui .... ab ipso Symmacho anathemate idem damnatus est Anastasius imperator, &c.

[55] Ubi supr. See also the following note.

[56] [Ap. Concil. General. cum Notis, &c. Colon. 1618, sive Lutet. Paris. 1636.] Symmachi Ep. 7. Dicis quod, mecum conspirante senatu, excommunicaverim te. Ista quidem ego, sed rationabiliter factum a decessoribus meis sine dubio subsequor.—So Baronius and Binius read it, *Ista quidem ego;* but the true reading is, *Ista quidem nego, I deny that I excommunicated you.* And yet Labbe retains that corrupt reading without any remark upon it. [See CC. t. 4. p. 1298., where the Epistle itself is entitled *Apologetica adversus Anastasii Imperatoris Libellum famosum, quo Pontificem ob latam in se excommunicationis sententiam proscindebat.* The document is not exstant in Crabbe and older editions which I have been able to examine; consequently after some pains I have failed in finding *authority* for *nego* as the true reading instead of *ego*, which Barrow and the Author after him condemn. Ed.]

[57] Johannes Roffensis, De Potestate Papæ in Rebus Temporalibus, l. 2. c. 39. n. 3. (p. 931.) Quod si hæc ausus fuisset [Ambrosius] in Imperatorem aliquem, parum pium, crudelem, omnis apprehensionis et

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cases where princes are fierce and cruel, and impatient of reproof and indignity, it were perhaps better to abstain from the severity of the lesser excommunication as well as the greater, rather than for a bishop to provoke an armed fury to turn itself both upon him and the Church: it were better to keep the sword in the sheath, than to unsheath it to the detriment and destruction of the Church and religion. Therefore admitting that of right kings and emperors might be excommunicated, yet the expediency of the thing is a very different question, and remains yet not perfectly resolved, whether it be for the advantage of the Church to use such severity against her patrons, her defenders, and her advocates, that is, emperors and kings.'

And this consideration of expediency made St. Austin and others determine, not only in the case of kings, but the people also, that when the whole multitude were involved in the same crime, either by actual commission, or abetting, or applauding the practice of it, that then the severity of excommunication, especially in the highest degree, could not be used toward them with any sort of prudence, for fear it should have either no effect or a very bad one. When a single criminal is separated by discipline from the society of the Church, the being avoided by the rest is a proper way to bring him to shame: but when the whole society, or a considerable part of it, is involved in a common crime, there is no possibility of putting such a multitude of criminals out of countenance, because they will encourage and bear up one another: and therefore in that case to exercise severity of discipline upon them, is only to make it despised by them, and throw the Church into schisms and convulsions, by the opposition of the turbulent and factious, and to scandalize the weak and injudicious, who will be led away by the powerful side, and perish by rooting out the tares before the time. St. Austin argues this matter frequently with the Donatists, who were for having a Church without spot and wrinkle upon earth, and for

indignitatis impatientem, satius fortasse fuisset ab istius sententiæ severitate abstinuisse, quam furorem armatum in seipsum et ecclesiam convertisse. Satius fuisset gladium in vagina continuisse, quam in jacturam et perniciem ecclesiæ et religionis evaginasse, &c.

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rooting out the tares wherever they found them, whatever consequences might attend it. Though, he observes, they did not keep to their own rule; for they tolerated one Optatus Gildonianus, a most infamous man, noted for his villanies over all Afric, and did not excommunicate him, for fear he should have carried off a multitude with him, and have broken their communion by new schisms and subdivisions among themselves. St. Austin [57] does not blame them for this, but only objects it to them as an argument *ad hominem*, to show them that they ought not to blame the Church for doing that in necessity, which they themselves were forced to do upon the like occasion. As to the practice of the Church, he freely owns, she was forced many times to tolerate the tares among the wheat, when they were grown numerous, and it was dangerous to eradicate them by the rough means of severe discipline, for fear of overturning the Church, and destroying its unity and peace by dangerous schisms, and scandalizing more weak souls that way than they could hope to gain by the other. It was so in Cyprian's time, he says, and it was so in his own. He often repeats and urges upon this occasion that famous passage of Cyprian in his Book *De Lapsis*, where speaking of the reasons of God's visiting the Church with that terrible persecution, he plainly intimates, that such numbers both of the clergy and laity had corrupted their morals, that good men could do nothing but mourn, and keep themselves as well as they could from partaking in their sins: but that could not then be done by the exercise of discipline, by reason of the

[57] Ep. 164. [al. 87.] ad Emerit. Donatist. (t. 2. p. 210 b.) Non ergo reprehendimus, si eo tempore, ne multos secum excommunicatus traheret, et communionem vestram schismatis furore præcideret, eum excommunicare noluistis. Sed hoc ipsum est, quod vos arguit in judicio Dei, frater Emerite, quod, cum videritis tam magnum malum esse, dividi partem Donati, ut Optatus potius in communione tolerandus existimaretur, quam illud admitteretur, permanetis in eo malo, quod in dividenda ecclesia Christi a vestris majoribus perpetratum est.—Ep. 170. [al. 52.] ad Severin. (t. 2. p. 119 f.).... Vos nostis, maxime quia tam multi scelerati apud eos emerserunt, et toleraverunt illos per tot annos, ne partem Donati conscinderent, &c.—Ep. 171. [al. 76.] ad Donatistas. (ibid. p. 180 g, p. 181 a.) Si malorum permixtionem timeretis, Optatum inter vos in apertissima iniquitate viventem per tot annos non teneretis.—Cont. Ep. Parmenian. l. 2. c. 2. (t. 9. p. 27 b.)... Optatum Gildonianum, decennalem totius Africæ gemitum, tanquam sacerdotem atque collegam honorantes, in communione tenuerunt.

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numbers of all orders that were to be subjects of it; many of those, who were to exercise it, being themselves the most obnoxious: and it was not to be expected that they should be very forward to put it in execution. So that the disease being grown too obstinate and strong to be cured this way, there remained no other remedy but the severity of a divine judgment, to rectify by an extraordinary scourge, what human power could not do in the ordinary way at such a juncture. 'The Lord,' says Cyprian[58], 'was therefore minded himself to prove his family, and because a long peace had corrupted the discipline that was given us from heaven, the divine judgment stepped in to raise up that faith which was fallen and almost laid asleep. All men's minds were set upon augmenting their estates; and forgetting what the first Christians did in the times of the Apostles, and what they ought always to do, they by an insatiable ardour of covetousness only studied to increase their fortunes. There was no true religion or devotion in the priests, no sincere faith in the minis-

[58] De Lapsis, p. 123. (pp. 88, 89.) Dominus probari familiam suam voluit, et quia traditam nobis divinitus disciplinam pax longa corruperat, jacentem fidem, et pene dixerim dormientem, censura cœlestis erexit; cumque nos peccatis nostris amplius pati mereremur, clementissimus Dominus sic cuncta moderatus est, ut hoc omne, quod gestum est, exploratio potius quam persecutio videretur. Studebant augendo patrimonio singuli; et obliti quid credentes, aut sub Apostolis ante fecissent, aut semper facere deberent, insatiabili cupiditatis ardore ampliandis facultatibus incubabant. Non in sacerdotibus religio devota, non in ministris fides integra, non in operibus misericordia, non in moribus disciplina. Corrupta barba in viris, in fœminis forma fucata. Adulterati post Dei manus oculi, capilli mendacio colorati. Ad decipienda corda simplicium callidæ fraudes, circumveniendis fratribus subdolæ voluntates: jungere cum infidelibus vinculum matrimonii, prostituere Gentilibus membra Christi: non jurare tantum temere, sed adhuc etiam pejerare: præpositos superbo timore contemnere, venenato sibi ore maledicere, odiis pertinacibus invicem dissidere: episcopi plurimi, quos et hortamento esse oportet cæteris et exemplo, divina procuratione contempta, procuratores rerum sæcularium fieri, derelicta cathedra, plebe deserta, per alienas provincias oberrantes, negotiationis quæstuosæ nundinas aucupari, esurientibus in ecclesia fratribus non subvenire, habere argentum largiter velle, fundos insidiosis fraudibus rapere, usuris multiplicantibus fœnus augere. Quid non perpeti tales pro peccatis ejusmodi mereremur? cum jam pridem præmonuerit ac dixerit censura divina, *Si dereliquerint legem meam, et in judiciis meis non observarint; visitabo in virga facinora eorum, et in flagellis delicta eorum.* Prænuntiata sunt ista nobis, et ante prædicta: sed nos, datæ legis et observationis immemores, id egimus per nostra peccata, ut, dum Domini mandata contempsimus, ad correctionem delicti et probationem fidei remediis severioribus veniremus.

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ters, no mercy in their works, no discipline in their morals. Effeminacy and fraud were reigning vices both in men and women. They made no scruple to marry with infidels, and prostitute the members of Christ to the Heathen. They were equally given both to profane swearing, and perjury, to contemn their governors with swelling pride, to curse themselves with venomous tongues, and with inveterate hatred and animosities to quarrel with one another. Many bishops, who ought to have been both monitors and examples to the rest, forsook their divine calling, to take upon them the management of secular affairs; and leaving their sees, and deserting their people, they rambled about other provinces, seeking for such business as would bring them in gain and advantage. In the mean time they suffered the poor of the Church to starve, whilst they themselves minded nothing but heaping up riches, and getting of estates by fraud and violence, by usury and extortion. What did we not deserve to suffer for such sins as these? Our crimes required, that for the correction of our manners, and the trial of our faith, God should bring us to severer remedies.'

Cyprian here plainly intimates that in such a corrupt state of affairs the discipline of the Church could not be maintained or be rightly put in execution. He was forced to endure these colleagues of his, who were covetous, rapacious, extortioners, usurers, deserters, fraudulent, and cruel. It was impossible to exercise Church censures with any good effect, when there were such multitudes both of priests and people ready to oppose them, and distract the Church into a thousand schisms rather than suffer themselves to be curbed or reformed that way: and therefore, when no other practicable method was left, the divine censure was necessary as the last and only remedy.

And this is what St. Austin[59] so often tells the Donatists, that the Church followed the example of Cyprian in this

[59] Lib. ad Donatist. post Collat. c. 20. (t. 9. p. 597 g.) Et ubi hoc facere gratia pacis et tranquillitatis ecclesiæ non permittimur, non tamen ideo ecclesiam negligimus, sed toleramus quæ nolumus, ut perveniamus quo volumus, utentes cautela præcepti Dominici, ne cum volumus ante tempus colligere zizania, simul eradicemus et triticum. Utentes etiam et exemplo et præcepto beati Cypriani, qui collegas suos fœneratores, fraudatores, raptores, pacis contemplatione pertulit tales, nec eorum contagione factus est talis.

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matter: 'When we are not permitted to excommunicate offenders for the sake of the peace and tranquillity of the Church we do not therefore neglect the Church, but only tolerate what we would not to obtain what we would have, using the caution of our Lord's command, lest whilst we gather out the tares before the time we should with them root up the wheat also: following also the example and precept of St. Cyprian, who endured with a view and regard to peace many of his colleagues who were usurers, defrauders, rapacious, and yet he was not infected with their contagion.' So he says again[60], 'The evil is sometimes to be endured for the sake of the good; as the Prophets tolerated those against whom they spake so many hard things, and did not forsake the communion of the sacraments used by that people because of them; as our Lord himself tolerated wicked Judas to the last, and permitted him to communicate in the same holy supper with innocent disciples; as the Apostles tolerated those who preached Christ out of envy, which is the Devil's sin; and as Cyprian tolerated the covetousness of his fellow-bishops, which he himself, according to the Apostle, styles idolatry.'

St. Austin frequently urges this example of Cyprian in other places: and he argues further for the necessity of the practice from the reason and nature of the thing itself and from the precepts of the Gospel. In his Book against Parmenian[61] he

[60] Ep. 48. [al. 93. c. 4.] ad Vincent. p. 66. (t. 2. p. 237 b, c.) Non enim propter malos boni deserendi, sed propter bonos mali tolerandi sunt. Sicut toleraverunt Prophetæ, contra quos tanta dicebant, nec communionem sacramentorum illius populi relinquebant. Sicut ipse Dominus nocentem Judam usque ad condignum ejus exitum toleravit, et eum sacram cœnam cum innocentibus communicare promisit. Sicut tolerarunt Apostoli eos, qui per invidiam, quod ipsius Diaboli vitium est, Christum annuntiabant. Sicut toleravit Cyprianus collegarum avaritiam, quam secundum Apostolum appellat idololatriam.—See to the same purpose Augustin de Bapt. l. 4. c. 9. (t. 9. p. 129 a.) Neque enim adversus coëpiscopos suos falsum testimonium diceret. Et tamen eos propter Christum, qui pro infirmis mortuus est, ne ante tempus eradicatis zizaniis simul eradicaretur et triticum, paternæ et maternæ caritatis visceribus toleravit, &c.—Id. cont. Ep. Parmenian. l. 3. c. 2. (ibid. p. 60 g.) Dicant ergo, si possunt, meliorem se atque purgatiorem habere nunc ecclesiam, quam erat ipsa unitas beatissimi Cypriani temporibus, qui collegas suos, a quibus tamen nulla corporali disjunctione separatus est, nullum eorum nominatim appellans, sed, prudenter ac sobrie saluberrimæ mordacitatis inferens medicinam, his verbis graviter arguit, &c.

[61] L. 3. c. 2. (ibid. p. 64 b.) Nam et ipse Dominus, cum servis volentibus zizania colligere dixit, *Sinite utraque crescere usque ad messem*, præmisit caussam, dicens, *Ne forte*,

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shows at large, when excommunication or anathematizing is to be used, and when not. 'It may be used, when there is no danger of rooting up the wheat together with the tares: that is, when a man's crime is so notorious to all, and appears so execrable to all, that he has no defenders, or not so many or so powerful as to make a schism; then the severity of discipline ought not to sleep, for then it will be effectual to correct his wickedness, when all charitably and unanimously join to confirm the sentence. And then it is that there is no danger hereby of prejudicing peace and unity, or of doing harm to the wheat, when the whole multitude or congregation of the Church is free from the crime that is anathematized. For then they will be ready to assist the bishop in his correction, and not the criminal in his resistance. Then they will abstain from his society for his good, and no one will so much as eat with him, not out of enmity, but for brotherly coercion. Then he also will be smitten with fear and cured by shame, when he sees himself anathematized by the whole Church, and can find no company to encourage him to rejoice in his crime or help him to insult the virtuous. 'And therefore,' he says, 'the Apostle requires that "such an one's punishment (or censure) should be in-

cum vultis colligere zizania, eradicetis simul et triticum. Ubi satis ostendit, cum metus iste non subest, sed omnino de frumentorum certa stabilitate certa securitas manet, id est, quando ita cujusque crimen notum est, et omnibus exsecrabile apparet, ut vel nullos prorsus, vel non tales habeat defensores, per quos possit schisma contingere: non dormiat severitas disciplinæ, in qua tanto est efficacior emendatio pravitatis, quanto diligentior conservatio caritatis. Tunc autem hoc sine labe pacis et unitatis, et sine læsione frumentorum fieri potest, cum congregationis ecclesiæ multitudo ab eo crimine, quod anathematur, aliena est. Tunc autem adjuvat præpositum potius corripientem, quam criminosum resistentem: tunc se ab ejus conjunctione salubriter continet, ut nec cibum quisquam cum eo sumat, non rabie inimica, sed coërcitione fraterna. Tunc etiam ille et timore percutitur, et pudore sanatur, cum ab universa ecclesia se anathematum videns, sociam turbam, cum qua in delicto suo gaudeat, et bonis insultet, non potest invenire. Ad hoc enim et ipse Apostolus ait, *Si quis frater nominatur*. In eo, quippe, quod ait, *Si quis*, nihil aliud videtur significare voluisse, nisi eum posse tali modo salubriter corrigi, qui inter dissimiles peccat, id est, inter eos, quos peccatorum similium pestilentia non corrumpit. In eo vero, quod ait, *nominatur*, hoc nimirum intelligi voluit, parum esse, ut si quisque talis, nisi etiam nominetur, id est, famosus appareat, ut possit omnibus dignissima videri, quæ in eum fuerit anathematis prolata sententia. Ita enim et salva pace corrigitur, et non interfectorie percutitur, sed medicinaliter uritur. Propterea et de illo dixit, quem tali medicina sanari voluerat, *Satis huic est correptio, quæ fit a multis*. Neque enim potest esse salubris a multis correptio, nisi cum ille corripitur, qui non habet sociam multitudinem. Cum vero idem morbus plurimos occupaverit,

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flicted of many." For a censure is of no advantage, except when such an one is corrected as has not a multitude on his side to uphold him. But when the same disease has seized a multitude, good men in that case can do nothing further but grieve and mourn. And therefore the same Apostle, when he found a multitude among the Corinthians who were defiled with uncleanness and lasciviousness and fornication, writing to them in his Second Epistle, he does not command them, "with such not to eat," as he had done before: for they were many, and he could not now say, "If any brother be a notorious fornicator, or an idolater, or covetous, or the like, with such an one no not to eat." But he says, "Lest when I come again my God will humble me among you, and I shall bewail many who have sinned, and have not repented of the uncleanness and lasciviousness and fornication which they have committed:" threatening them by his bewailing that they should be punished by the divine scourge, rather than that punishment which consisted in men's withdrawing from their society. His mourning would obtain of the Lord a scourge to correct them, who could not now by reason of their multitude be corrected in such manner, as that others should abstain from their society and make

nihil aliud bonis restat, quam dolor et gemitus; ut per illud signum, quod Ezechieli sancto revelatur, illæsi evadere ab illorum vastatione mereantur .... Ideoque (g.) idem Apostolus, cum jam multos comperisset immunda luxuria et fornicationibus inquinatos, ad eosdem Corinthios in Secunda Epistola scribens, non itidem præcipit, ut cum talibus nec cibum sumereut. Multi enim erant, nec dici de his poterat, *Si quis frater nominatur fornicator, aut idolis serviens, aut avarus, aut aliquid tale, cum ejusmodi nec cibum quidem simul sumere;* sed ait, *Ne iterum cum venero ad vos, humiliet me Deus, et lugeam multos ex iis, qui ante peccaverunt, et non egerunt pœnitentiam super immunditia, et luxuria, et fornicatione, quam gesserunt:* per luctum suum potius eos divino flagello coërcendos minans, quam per illam correptionem, ut cæteri ab eorum conjunctione se contineant. Consequenter enim dicit, *Ecce tertio hoc veniam ad vos: in ore duorum vel trium testium stabit omne verbum. Prædixi, et prædico sicut præsens secundo, et nunc absens iis, qui ante peccaverunt, et cæteris omnibus quia, si venero iterum, non parcam; quia probationem quæritis ejus, qui in me loquitur Christus.* Quid aliud dixit hic, *Non parcam,* nisi quod superius ait, *Et lugeam multos:* ut luctus ejus impetraret flagellum a Domino, quo illi corriperentur, qui jam propter multitudinem non poterant ita corripi, ut ab eorum conjunctione se cæteri continerent, et eos erubescere facerent, sicut faciendum est, si quis frater in aliquo cæteris dissimili crimine nominetur? Et revera, si contagio peccandi multitudinem invaserit, divinæ disciplinæ severa misericordia necessaria est: nam consilia separationis et inania sunt, et perniciosa atque sacrilegia: quia et impia et superba fiunt, et plus perturbant infirmos bonos, quam corrigunt animosos malos.

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them ashamed, as it may be done in the case of a single brother, who is noted for a crime from which all the rest are free. And indeed when the contagion of sin has invaded a whole multitude it is then necessary for God to visit them out of mercy with the severity of his own divine censure: for in that case exhortations to avoid the company of sinners are not only vain but pernicious and sacrilegious, because impious and proud, tending more to disturb good men that are weak, than to correct the stubbornness and animosity of the evil.' And therefore he observes[62], 'that St. Paul treated the single incestuous Corinthian, and the multitude that denied the resurrection, in a different way: he did not command the Corinthians to make a corporal separation from them, for they were many, not like that one who had married his father's wife, whom he judged worthy of a freer censure and excommunication. There was one way to be taken with a single person, another to cure and heal a multitude, lest if the people were divided from one another by parties the wheat also should be rooted up by the mischief of schism. And therefore the Apostle does not enjoin those who believed the resurrection to separate corporally from those who did not believe it in the same people, though he never ceases to separate them spiritually by frequent admonitions to beware of joining in their impious opinions.' He says further[63], 'When such evil men are tolerated in the Church, good men who are displeased with them, and know not how to mend them, neither dare to root out the tares before the time of the harvest, for fear they should root up the wheat also, do not communicate with their wicked deeds,

[62] Lib. ad Donatist. post Collat. c. 21. (t. 9. p. 602 g.).... Non eis præcepit corporalem separationem: multi quippe erant, non sicut ille unus, qui uxorem patris sui habuit, quem liberiore correptione et excommunicatione judicat dignum. Longe aliter iste, aliter vitiosa curanda et sananda est multitudo, ne forte si plebs a plebe separetur, per schismatis nefas etiam triticum eradicetur. Eos ergo qui jam credebant resurrectionem mortuorum, ab his, qui eam in eodem populo non credebant, non corporaliter Apostolus separat, sed tamen spiritaliter separare non cessat, dicens, *Nolite seduci, corrumpunt bonos mores colloquia mala.*

[63] Ep. 162. [al. 43. c. 8.] ad Episc. Donatist. p. 280. (t. 2. p. 98 a.).... Quibus autem displicent [mali], et eos emendare non possunt, neque ante tempus messis audent zizania eradicare, ne simul eradicent et triticum, non factis eorum, sed altari Christi communicant: ita ut non solum non ab eis maculentur, sed etiam divinis verbis laudari prædicarique mereantur, quoniam ne nomen Christi per horribilia schismata blasphemetur, pro bono unitatis tolerant, quod pro bono æquitatis oderunt.

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but with the altar of Christ: so that they are not only not polluted by them, but deserve divine praise, because, rather than the name of Christ should be blasphemed by horrible schisms, they tolerate for the good of unity what they otherwise hate for the love of equity.' This he shows to be a thing praiseworthy from various examples both of the Old and New Testament, and the practice of our Saviour and his Apostles, which are too numerous and long to be here inserted. He says more briefly in another Epistle[64], 'that the wicked do not hurt the good in the Church, though they be notoriously evil, if either there be no power to cast them out of communion, or some considerations of preserving peace hinder the doing of it.' And again[65], 'Although there be some whom we cannot correct, and necessity compels us for the sake of others to allow them to communicate in the divine sacraments, yet we do not communicate with them in their sins, which is never done but by favouring and consenting to them. For we only tolerate them in the Church as tares among the wheat, and as chaff mingled with the corn in this floor of unity, and as bad fish among the good enclosed in the nets of the word and sacraments, till the time of harvest or winnowing or drawing to shore comes; lest with them we should root up the wheat: or by separating the corn in the floor before the time rather expose it to the fowls of the air to devour it than purge it to be laid up in the garner; or should break the nets by schisms,

[64] Ep. 164. [al. 87.] ad Emerit. (ibid. 209 c.) .... Illud non est tacendum, etiam cognitos malos bonis non obesse in ecclesia, si eos a communione prohibendi aut potestas desit, aut aliqua ratio conservandæ pacis impediat.

[65] Ep. 166. [al. 105. c. 5.] (t. 2. p. 303 a, b.) .... Quos autem corrigere non valemus, etiamsi necessitas cogit pro salute cæterorum ut Dei sacramenta nobiscum communicent, peccatis tamen eorum non communicemus, quod non fit nisi consentiendo et favendo. Sic enim eos in isto mundo, in quo ecclesia Catholica per omnes gentes diffunditur, quem agrum suum Dominus dicit, tanquam zizania inter triticum, vel in hac unitatis area tanquam paleam permixtam frumento, vel intra retia verbi et sacramenti tanquam malos pisces cum bonis inclusos, usque ad tempus messis, aut ventilationis, aut littoris toleramus, ne propter illos eradicemus et triticum, aut grana nuda ante tempus de area separata, non in horreum mittenda purgemus, sed volatilibus colligenda projiciamus, aut, disruptis per schismata retibus, dum quasi malos pisces cavemus, in mare perniciosæ libertatis exeamus. Propter hoc enim his atque aliis similitudinibus Dominus servorum suorum tolerantiam confirmavit; ne, dum se boni putant malorum permixtione culpari, per humanas et temerarias dissentiones aut parvulos perdant, aut parvuli pereant.

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and, by over-abundant caution to cast out the bad fish, should open a way of pernicious liberty for the rest to return into the sea again. For this reason our Lord made use of these and the like parables to confirm the forbearance of his servants, lest if the good should think themselves to blame for mingling with the evil, they should either destroy the weak by human and hasty dissensions, or themselves become weak and perish.' He pursues the same argument at large in his Epistle to Macrobius[65], and his Books against Gaudentius[66], and many other places[67]: but what I have already produced abundantly shows his sense of this matter, and not only his sense, but the concurrent opinion and practice of the whole African Church both in the time of Cyprian and the Collation of Carthage, to which he refers.

So that upon the whole matter their opinion appears plainly to be this, that when a multitude of sinners in the Church made it dangerous to exercise discipline upon them, it was more expedient to endure the bad among the good, rather than, by trying to purge them out by the severity of censures, to endanger breaking of the nets, and involve the Church in terrible schisms, to the scandal of the weak and no benefit to the Church, whilst together with the tares they rooted up the wheat also. And this practice in difficult times is generally allowed to be expedient by modern writers, among whom the learned reader may consult Richerius[68], Estius[69], Lyra[70],

[65] Ep. 255. [al. 108. c. 3.] (ibid. p. 308 c.) Pisces quippe illi, de quibus in evangelio Dominus loquitur, boni et mali intra eadem retia.... usque ad finem sæculi.... pariter natant corporibus mixti, sed moribus separati.—See especially, ibid. n. 10. (p. 309 d.) Ipse ergo ille Cyprianus, &c.

[66] L. 2. c. 3. (t. 9. p. 667.) c. 5. (p. 669.) c. 9. (p. 671.)

[67] Ep. 69. [al. 249.] ad Restitut. (t. 2. p. 877 e.).... Ita prope nulla est [scil. pagina sanctorum librorum], quæ nos non admoneat intus in ipsa societate sacramentorum... cum his, qui oderunt pacem, esse debere pacificus, &c.—Brevicul. Collat. die 3. c. 8. (t. 9. p. 561. n. 14 f.).... Non esse malos in ecclesia tolerandos, &c.—De Fid. et Oper. cc. 2, 3, 4, 5. (t. 6. p. 166–169.) Vid. Collat. Carth. die 3. nn. 258 et 265. (CC. t. 2. pp. 1495, seqq.)

[68] De Potest. Pap. in Reb. Temporal. l. 3. c. 4. n. 6. (pp. 293, seq.) Verum ut in excommunicationis et censurarum naturam altius penetremus, &c.

[69] In 2 Cor. 10, 6. (p. 509.) Accipitur illa excommunicatio de iis, qui adhuc inter Corinthios magnis peccatis erant obnoxii; in quos, quia multi erant, non facile poterat exerceri disciplina per excommunicationem, &c.

[70] Gloss. in Matth. 13, 29. (t. 5. p. 242 f.) Hic datur locus pœnitentiæ, et monemur non cito amputare: quoniam, qui errat hodie, cras forte defendet veritatem. Si ergo modo avelleretur, triticum, quod futurum

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Grotius[71], Bishop Taylor[72], Dr. Whitby[73], and Rivet[74]. For I know of none but Peter Martyr[75] who maintains the contrary opinion against St. Austin. But I return to the Ancients and their practice.

The innocent never involved among the guilty in ecclesiastical censures. The original and novelty of Popish interdicts.

7. Where, among other prudent cautions observed in this matter, we may remark their wisdom and piety in managing this spiritual sword, so as it might affect offenders only, and not involve the innocent and guiltless in the same condemnation. That which has been so common and so tyrannical a practice with the Popes of later ages, to lay whole Churches and nations under interdict, and forbid them the use of all sacraments, for the faults of a single criminal, was so much unknown to the Ancients, that St. Austin was amazed when he heard of a young rash African bishop, who in his warm zeal, for the single offence of one Classicianus, and that not evidently proved, had anathematized both him and his whole family together. Complaint of the thing being made to St. Austin, he thus writes to the bishop[76], to expostulate with him upon the fact in these terms: 'Being in great concern of mind, and my heart fluctuating as in a tempest within me, I could not but write to your charity, to desire you to inform me if you have

erat, eradicaretur..... Ibi patienter tolerandi mali, ubi aliqui inveniuntur, quibus adjuventur boni. Augustin.: *Multitudo non est excommunicanda: nec princeps populi, &c.*

[71] In 2 Cor. 10, 6. (p. 852. 10.) Neque enim duris remediis locus est, ubi tota ecclesia in morbo cubat.

[72] Duct. Dubitant. b. 3. ch. 4. p. 610. (rule 8. sect. 7. Works, v. 3. p. 607.) The king nor the people are not to be excommunicated, is an old rule. For if the whole multitude be excommunicate, with whom shall we communicate? If great parts of them be, they plainly make a schism, if they unwillingly suffer the censure.

[73] Protestant Reconciler, part. 2. (Sec. Edit. p. 257.) And to confirm the judgment of St. Austin, &c.

[74] Synops. Purior. Theolog. disp. 48. n. 30. (p. 717.) Sed si sola prava vita, non ex doctrina prava, sed contra doctrinam sanam, magnam gregis partem invaserit, ex sententia Augustini, Lib. 3. contra Epistolam Parmeniani, et alibi adversus Donatistas, nec secessione ab eis, nec excommunicatione, sed precibus, gemitu, adhortationibus, reprehensionibus, comminationibus, bonis exemplis, et similibus remediis tantum utendum: quemadmodum videmus prophetas et pios sacerdotes his solis armis in ecclesia Israelitica esse usos, quod et probat ex loco 2 Cor. 10, quia hæc potestas non ad destructionem sed ad ædificationem sit data; et ex parabola zizaniorum, quæ Christus evelli noluit sed ferri; quando metus est, ne triticum eadem opera evellatur ac perdatur; Matth. 13, 29.

[75] Loc. Commun. l. 4. c. 5. n. 12. p. 784. (pp. 554 h. 8, seqq.)

[76] Ep. 75. [al. 250.] ad Auxilium. (t. 2. p. 878 c.).... Non mediocriter æstuans, cogitationibus magna cordis tempestate fluctuantibus, apud caritatem tuam tacere non potui: ut, si habes de hac re sententiam,

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any certain grounds of reason or authority of Scripture for your practice, how a son can rightly be anathematized for his father's sin, or a wife for her husband's, or a servant for his master's? or why a child that is yet unborn, if he happens to be born in the family, while it lies under *anathema*, may not have the benefit of the laver of regeneration in the article of death? For this is not a corporal punishment, with which we read some despisers of God were slain with their whole families, though the families were not partakers in their crimes. Then indeed mortal bodies, which must otherwise shortly have died, were slain, to strike a terror into the living. But spiritual punishment, of which it is said, "Whatsoever thou shalt bind on earth shall be bound in heaven," this also binds souls, of whom it is written, "The soul of the father is mine, and the soul of the son is mine: the soul that sinneth it shall die." For my part I can give no just reason for such *anathemas*, and therefore I have never dared to use them, even when I have been most highly provoked by the clamorous crime of some, committed insolently against the Church. If God has revealed it unto you, I despise not your youth, but shall be ready to learn how we can give a just reason either to God or man for inflicting spiritual punishments upon innocent souls for the sin

certis rationibus vel Scripturarum testimoniis exploratam, nos quoque docere digneris, quomodo recte anathemetur pro patris peccato filius, aut pro mariti uxor, aut pro domini servus, aut quisquam in domo etiam nondum natus, si eodem tempore, quo universa domus est anathemate obligata, nascatur, nec ei possit per lavacrum regenerationis in mortis periculo subveniri. Neque enim hæc corporalis est pœna, qua legimus quosdam contemptores Dei cum suis omnibus, qui ejusdem impietatis participes non fuerunt, pariter interfectos. Tunc quidem ad terrorem viventium mortalia corpora perimebantur, quandoque utique moritura. Spiritalis autem pœna, qua fit quod scriptum est, *Quæ ligaveris in terra, erunt ligata et in cœlo*, animas obligat, de quibus dictum est, *Anima patris mea est, et anima filii mea est. Anima, quæ peccaverit, ipsa morietur*. Audisti fortasse aliquos magni nominis sacerdotes cum domo sua quempiam anathemasse peccantium? Sed forte si essent interrogati, reperirentur idonei reddere inde rationem. Ego autem, quoniam si quis ex me quærat, utrum recte fiat, quid ei respondeam, non invenio. Nunquam hoc facere ausus sum, cum de quorundam facinoribus, immaniter adversus ecclesiam perpetratis, gravissime permoverer. Sed si tibi forte quoniam juste fiat, Dominus revelavit, nequaquam juvenilem ætatem tuam, et honoris ecclesiastici rudimenta contemno. En adsum, senex a juvene, et episcopus tot annorum a collega necdum anniculo paratus sum discere, quomodo vel Deo vel hominibus justam possumus reddere rationem, si animas innocentes pro scelere alieno, ex quo non trahunt, sicut ex Adam, in quo omnes peccaverunt, originale peccatum, spiritali supplicio puniamus.... Si ergo de hac re

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of another, from whom they derived no original sin, as they do from Adam, in whom all have sinned. But if you can give no good reason for it, why do you that out of an unadvised and precipitate commotion of mind, in defence of which, if any man ask you a reason, you have nothing to answer.'

From this decent reproof given to the headstrong passion of this young bishop, and his intemperate zeal in anathematizing a whole family for the crime of the master only, we may conclude there was no such allowed practice in the Church in St. Austin's time, as excommunicating the innocent with the guilty, though the innocent might have some near relation to, or unavoidable dependence on, the offending parties: much less was it customary then to lay whole bodies, Churches or nations, under interdict, and forbid them the use of the sacraments, merely to curb or restrain the contumacy of others, of which they were wholly innocent, and no ways partakers. Which was a monstrous and novel abuse of discipline, peculiar to the tyrannical times of the Papacy, and utterly unknown to former ages. Baronius[77], indeed, brings a single instance of it out of the Annals of France; where it is said, that Pope Agapetus, anno 535, threatened King Clotarius to put his kingdom under interdict, unless he made satisfaction for a barbarous and sacrilegious murder committed by him in the church upon one Gualter de Yvetot, who carried the Pope's letters of recommendation to him. But, as this story is only told by modern writers, such as Du Haillan, whom Baronius quotes, and Gaguinus, Gilius, and Tilius, added by Spondanus, and has not the authority of any ancient writers, and has something also in the narration itself which destroys its credit with judicious men, Spondanus[78] owns, there are many learned men

potes reddere rationem, utinam et nobis rescribendo præstes, ut possimus et nos: si autem non potes, quid tibi est inconsulta commotione animi facere, unde, si fueris interrogatus, rectam responsionem non vales invenire?

[77] An. 535. (t. 7. append. p. 9 b.) Gualterus cum literis Suessonum, ubi rex degebat, die Veneris sancta advenit; et, cum rex in sacello suo sacris adesset, crucemque adorare vellet, Gualterus prædictum sacellum intravit, pontificisque literas regi obtulit. Rex autem prima fronte Gualterum non agnovit propter diuturnam illius e regno absentiam: sed, acceptis et perlectis literis ipsoque agnito, gladium suum exseruit; vel, ut aliis placet, militis cujusdam astantis ensem corripuit, et Gualterum interfecit. Pontifex crudeli hoc facinore accensus regi mandavit, ut culpam illam emendaret, alioquin regnum ipsius interdictum fore, &c.

[78] Epitom. Baron. an. 535. n. 18.

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who reject it as a fable, prevailing only by the credulity of the French nation for many ages. And therefore it is not worthy to be mentioned as a piece of ancient history in the case before us.

Some date the original of interdicts from the time of Alexander III., about the year 1160. And indeed about this time they began to be very frequent. Habertus[79] says, Morinus carries them a little higher, to the time of Pope Hildebrand or Gregory VII., who is most likely to be the father of them[80], for they are sometimes mentioned in his epistles. Habertus him-

ult. (t. 2. p. 31.) Hanc historiam regni de Yvetot, præter Halianum, ex quo illam descripsit Baronius, æque recitant, qui ante illum scripserunt, Gaguinus, Gilius, Tilius, et si qui alii eorundem temporum rerum Franciarum auctores: quum tamen vetustiores illi eam silentio prætermiserint. Qua ratione, et quod se ipsam narratio aliqua ex parte destruere videatur; non desunt hodie, qui inter fabulas recenseant, quæ constanti credulitate per multa sæcula obtinuit in Gallia.

[79] Archierat. Ad Censur. Pontif. observ. 5. (p. 746.) De interdicto vero apud Græcos aliquid e penu nostra. Duplex interdictum, quo divina officia actione, ut inquiunt, et passione prohibentur, scio triplex a doctoribus distingui, locale, personale, et ex utraque compositum. Sed locum et gentem proprie respicit. Illius epochen, quod quidam ante tempora Alexandri tertii inauditum interdictum dixerint, recte antiquiorem in Occidente ostendit Morinus ex Ivone Carnot. epist. 50. et Gregorio Septimo, l. 1. epist. 81. et l. 2. epist. 5. et aliis, imo et ex Concilio Lemovicensi, an. 1034, apud Baronium. Verum longe antiquiorem esse interdicti usum apud Græcos, ostendimus ex S. Basilio. Locus eximius et observatione dignissimus est Epistola ad episcopum quendam 244., in qua agit de quadam puella rapta parentibus restituenda, raptore una cum consciis excommunicando per triennium, et si raptam reddere negaverint, pago ipso sacris interdicendo. Τὴν μὲν παῖδα, ὅπουπερ ἂν εὕρῃς, ἀφελόμενος πάσῃ εὐτονίᾳ ἀποκατάστησον τοῖς γονεῦσι· καὶ αὐτὸν δὲ ἐκεῖνον ἐξόρισον τῶν εὐχῶν καὶ ἐκκήρυκτον ποίησον· καὶ τὴν κώμην τὴν ὑποδεξαμένην τὴν ἁρπαγεῖσαν καὶ φυλάξασαν, ἤτοι ὑπερμαχήσασαν, καὶ αὐτὴν ἔξω τῶν εὐχῶν πανδημεὶ ποίησον.

[80] Vid. Greg. VII. l. 1. Ep. 81. (CC. t. 10. p. 64 c.) Confrater noster Theodoricus Virdunensis episcopus, ut sæpe nobis relatum est, habitatores loci apud monasterium quoddam sancti Michaelis infra parochiam suam, ad quasdam novas consuetudines sua virtute et potentia flectere et coërcere diu conatus est, videlicet ut cum litaniis majorem ecclesiam, hoc est, suam episcopalem sedem, simul congregati singulis annis visitarent. Quod cum illi inusitatum, ne forte ad alterius novæ exactionis occasionem darent, pati renuerent, divinum ibi officium fieri penitus interdixit, &c.—L. 2. Ep. 5. (ibid. p. 74 a.) Quod si vos audire noluerit [rex Franciæ] et abjecto timore Dei contra regium decus, contra suam et populi salutem, in duritia cordis sui perstiterit, apostolicæ animadversionis gladium nequaquam eum diutius effugere posse, quasi ex ore nostro sibi notificate. Propter quod et vos, apostolica auctoritate commoniti atque constricti, matrem vestram sanctam Romanam et apostolicam ecclesiam debita fide et obedientia imitemini, et ab ejus vos obsequio atque communione penitus separantes, per universam Franciam omne divinum officium publice celebrari interdicite, &c.

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self pretends to make them as ancient as St. Basil. But the place out of Basil's Epistles[81] says no more, but that when a whole Church make themselves partakers of another man's sins they may be censured all together. Which is very far from the indiscriminating censure of an interdict, which condemns a whole nation, and that commonly for no crime, but rather their duty, for adhering conscientiously to their natural allegiance due to their lawful sovereigns, when the Pope is pleased to excommunicate and depose them under pretence of the plenitude of ecclesiastical power, as any one, that would write the history of interdicts, might easily demonstrate. Whatever St. Basil meant, it is certain he had not this in his thoughts: neither was it the usual practice of the Church to anathematize whole bodies of men, though guilty, unless it was for terror's sake, as has been shown in the foregoing section.

The danger of excommunicating innocent persons.

8. As to innocent persons, all care imaginable was taken that the censures of the Church should not be abused by any indiscreet application of them to the condemnation of the guiltless. In which case, an unjust sentence was thought to recoil upon the head of him that executed it. Thus Firmilian[82] told Pope Stephen, 'that in cutting off others, who did not deserve it, he cut off himself. Be not deceived, for he is the true schismatic who makes himself an apostate from the communion of the ecclesiastical unity. For while you think you can excommunicate all others, you only excommunicate yourself from them.' In like manner Polycrates[83], bishop of Ephesus, answered Pope Victor, when he threatened to excommunicate him and all the Asiatic Churches for not observing Easter in the same manner as they did at Rome: 'he was not afraid of his menaces,' he told him, 'for he had learned of those that were greater than he, to obey God rather than man.' And Eusebius adds, 'that when Victor persisted still in this headstrong resolution, Irenæus and several other bishops wrote *very sharply*

[81] Ep. 244. [al. 270.] Sine inscript. (t. 3. part. 2. p. 603 e.) . . . . Τὴν μὲν παῖδα, κ. τ. λ. See the latter part of n. 79, preceding.

[82] Ep. 75. ap. Cypr. p. 228. (p. 326.) Excidisti teipsum. Noli te fallere. Siquidem ille est vere schismaticus, qui se a communione ecclesiasticæ unitatis apostatam fecerit. Dum enim putas omnes a te abstineri posse, solum te ab omnibus abstinuisti.

[83] Ep. ad Victor. ap. Euseb. l. 5. c. 24. (v. 1. p. 244. 21.) Οὐ πτύρομαι ἐπὶ τοῖς καταπλησσομένοις, κ. τ. λ.—Conf. Augustin. de Ver. Relig. c. 6. tot. (t. 1. p. 751 e.) Hæc enim ecclesia Catholica, &c.

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to him,—πληκτικώτερον,—reproving him for his unwarrantable abuse of the Church's censures.

It is a noted saying in the Index to the Works of Pope Gregory I.,[84] upon this account, 'If any one excommunicate another unjustly, he does not condemn him, but himself.' Though the Romanists commonly magnify another saying of his, transcribed into the Canon Law[85], 'The sentence of the shepherd is to be dreaded, whether it be just or unjust;' which can certainly never be true, but in a very doubtful case. It is much more to the purpose, what Gratian in the same Question alleges from St. Austin[86], 'that a man had need be very careful whom he binds on earth: for unjust bonds will be loosed by the justice of Heaven; and not only so, but turn to the condemnation of him that imposes them: for though rash judgment often hurts not him who is rashly judged[87], yet the rashness of him that judges rashly will turn to his own disadvantage. In the mean time, it is no detriment to a man[88] to have his name struck out of the diptychs of the Church by human ignorance, if an evil conscience do not blot him out of the book of life.' Thus far St. Austin in several places, alleged by Gratian, to which may be added what he cites out of the foresaid place of Gregory[89], 'that he deprives himself of the power

[84] L. 2. Ep. 24. Si quis illicite quenquam excommunicat, semet ipsum, non illum, condemnat. [Vid. Gratiani Decretum, caus. 24. quæst. 3. c. 2. (ap. Corp. Jur. Canon. t. 1. p. 1418. 41.) *Illicita autem excommunicatio notatum non lædit, sed excommunicantem. Unde Gregorius scribit Magno, Mediolanensi episcopo*, l. 2. [corrige, 3.] ep. 26. (Oper. Greg. Paris. 1705. t. 2. p. 642. *Gregorius Magno, presbytero Ecclesiæ Mediolanensi.*) Qui illicite, &c.:—which words, however, are no part of Gregory's Epistle itself as referred to, but merely the epitomizer's abstract of the spirit of Gregory's remarks, while releasing Magnus from the unjust excommunication, which Laurentius (quoniam frater et coëpiscopus noster) had illegally inflicted on him. Ed.]

[85] Hom. 26. in Evangel. ap. Gratian. caus. 11. quæst. 3. c. 1. (t. 1. p. 920. 9.) Sententia pastoris, sive justa, sive injusta fuerit, timenda est.

[86] Serm. 16. de Verb. Dom. [al. 82. Oper. Augustin. t. 5. p. 442 g.] ap. Gratian. ibid. c. 48. (p. 939. 16.) Ut juste alliges, vide. Nam injusta vincula dirumpit justitia.

[87] De Serm. Dom. in Mont. 2. c. 18. ap. Gratian. ibid. c. 49. (p. ead. 35.) Temerarium judicium plerumque nihil nocet ei, de quo temere judicatur. Ei autem, qui temere judicat, ipsa temeritas necesse est ut noceat.

[88] Ep. 137. [al. 78. Oper. Augustin. t. 2. p. 184 e.] ap. Gratian. ibid. c. 5. (p. ead. 46.) Quid enim obest homini, quod ex illa tabula non vult eum recitari humana ignorantia, si de libro vivorum non eum delet iniqua conscientia?

[89] Hom. 26. in Evangel. ap. Gratian. caus. 11. quæst. 3. c. 60. (t. 1. p. 943. 12.) Ipse ligandi atque solvendi potestate se privat, qui hanc pro suis voluntatibus, et non pro

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of binding and loosing, who exercises it according to his arbitrary will, and not according to the deserts of those that are under his government.' He means, that an excommunication, unjustly pronounced, is of no force against one that deserves it not; neither is the absolution of an impenitent sinner any better; because they are both done *clave errante, by a misapplication of the keys:* in which case, as the Gloss upon the Law[90] words it, 'the party so bound is not bound before God: for it often happens, that by this means a man is excommunicated out of the Church militant, who notwithstanding is in the Church triumphant.' And such excommunications, says Cardinal Tolet[91], bind neither before God nor the Church.

No one to be excommunicated without being first heard, and allowed to speak for himself.

9. Now to prevent this inconvenience, the ancient Church prescribed several useful rules to be observed in the matter of excommunication. For besides that ordinarily no one was to be censured without a previous admonition, as has been noted before[92], it was likewise ordered, that no man should be condemned in his absence, without being allowed liberty to answer for himself, unless he contumaciously refused to appear. 'Let ecclesiastical judges beware,' says the Council of Carthage[93], 'that they never pronounce sentence against any one that is absent, when his cause is under debate: otherwise the sentence shall be void, and they shall give an account of their action to the synod.' Upon this ground St. Austin[94]

subjectorum moribus exercet.—Gelas. ap. Gratian. ibid. c. 46. (p. 938. 65.) Cui est illata sententia, deponat errorem et vacua est: sed si injusta est, tanto eam curare non debet, quanto apud Deum et ecclesiam ejus neminem potest iniqua gravare sententia. Ita ergo ea se non absolvi desideret, qua se nullatenus perspicit obligatum.

[90] Gloss. in Extravagant. Ioan. XXII. tit. 14. c. 5. p. 160. (ibid. t. 3. p. 160. not. r.) *Solutum et in cœlis* sed hoc intellige clave non errante: alias enim si ligando vel solvendo erraret, ligatus vel solutus quis non dicitur quoad Deum. Frequenter enim fit, ut, qui per ecclesiam militantem foras mittitur, intus sit, scilicet in ecclesia triumphanti: et ille foris est, scilicet extra ecclesiam triumphantem, qui intus, scilicet in ecclesia militanti, retineri videtur.

[91] Instruct. Sacerdot. l. 1. c. 10. (p. 22. in cap. init.) .... Iniqua sententia, nec apud Deum nec apud ecclesiam quenquam gravat.

[92] Ch. 2. s. 6. p. 83.

[93] Carth. 4. c. 30. (t. 2. p. 1202 d.) Caveant judices ecclesiastici [al. ecclesiæ], ne absente eo, cujus causa ventilatur, sententiam proferant, quia irrita erit; [immo] et causam in synodo pro facto [al. profecto] dabunt.—Vid. plura ap. Gratian. caus. 3. quæst. 9. c. 2. (t. 1. p. 755. 12.) Vid. Gloss. in loc. not. a. Est hic pro opinione illorum, &c.

[94] Ep. 162. p. 279. [al. 43. c. 3.] (t. 2. p. 93 e.) Si autem nec vituperari, nec corripi, nisi interrogatum Spiritus Sanctus voluit, quanto sce-

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refutes the censure which the Donatists pretended to pass upon Cæcilian, bishop of Carthage, because he was absent, and never examined by them before they proceeded to condemn him.

Nor without legal conviction, either by his own confession, or credible evidence of witnesses, against whom there was no exception, or such notoriety of the fact as made a man liable to excommunication *ipso facto*, without any formal denunciation.

10. Another rule observed in this case was, that no one should be excommunicated unless he stood legally convicted of his crime. Which might be three ways; 1. By his own confession. 2. By the credible evidence of such witnesses as could not justly be excepted against, or suspected of bearing false testimony. 3. By such notoriety of the fact, as made a man liable to excommunication *ipso facto*, without any further process or formal denunciation: as in the case of those that fell by offering sacrifice in time of persecution: here was no need in this case either of their own confession, or conviction by witnesses; for their crime was notorious to all the world, and it needed no formal process or examination of witnesses to condemn them. Neither was there any need of a formal sentence of excommunication to be pronounced against them; for they stood excommunicated *ipso facto*, as learned men[95] style it: the fact itself, being evident and notorious to all, was sufficient to declare them excommunicate, as having forfeited all right to the privileges of Christian communion. In other cases, where the matter was not so clear, they required either the confession of the party himself, or the legal evidence of unexceptionable witnesses. Thus St. Austin[96] declares: 'We cannot exclude any one from communion, except he either voluntarily confess his crime himself, or be noted and convicted in some secular or ecclesiastical judgment. For who

leratius non vituperati aut correpti, sed omnino damnati sunt, qui de suis criminibus nihil absentes interrogari potuerunt?—Serm. 22. de Verb. Apost. [al. Serm. 164. c. 8.] (t. 5. p. 795 a.) Sed damnatus est, inquiunt, Cæcilianus. Damnatus? A quibus? Primo absens, deinde a traditoribus innocens.

[95] Cave, Primitive Christianity, part. 3. ch. 5. p. 366. (p. 344.) We cannot imagine that in every person that stood under this capacity a formal sentence was always denounced against him, it being many times sufficient that the fact he had done was evident and notorious, as in the case of the lapsed that had offered sacrifice; for in this case the offender was looked upon as *ipso facto* excommunicate, and all commerce forborne towards him.

[96] Hom. 50. ex 50. de Pœnitent. t. 10. p. 207. [al. Serm. 351.] (p. 1359 f, g.) Nos vero a communione prohibere quenquam non possumus... nisi aut sponte confessum, aut in aliquo sive sæculari sive ecclesiastico judicio nominatum atque convictum. Quis enim sibi utrumque audeat assumere, ut cuiquam ipse sit et accusator et judex?

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dare to assume to himself to be both accuser and judge?' 'We are not to exclude any man,' says Pope Innocent[97], 'upon bare suspicions.' 'Where the crime is not evident,' says Origen[98], 'we can cast no man out of the Church, lest while we root out the tares, we root up the wheat also.' And the same reason is given by St. Austin in the place now cited.

Justinian[99] confirmed this rule of the Church by a civil sanction, not only forbidding all bishops and presbyters to segregate any man from the communion before his crime was evidently proved against him, but ordering such an one immediately to be restored to communion; and the minister, who suspended him, to be suspended himself by his superior, *ut, quod injuste fecit, juste sustineat, that he may justly suffer the same punishment which he unjustly inflicted on the other.* As therefore they were not to excommunicate a whole multitude, though their crimes were notorious; so neither were they to excommunicate a single criminal, unless his crime could be made evident to the multitude, that they might detest and abhor it: then the severity of discipline was not to sleep, according to St. Austin's[1] rule: and[2] if the criminal was accused and also convicted by evident proofs and testimony before the judge, then the judge might proceed against him

[97] Ep. 3. c. 4. (CC. t. 2. p. 1256 a.) .... Non facile quisquam ex suspicionibus abstinetur .... Probatione cessante, vindictæ ratio conquiescit.

[98] Hom. 21. in Jos. t. 1. p. 328. (t. 2. p. 447 b.) .... Ubi enim peccatum non est evidens, ejicere de ecclesia neminem possumus, ne forte eradicantes zizania, eradicemus simul cum ipsis etiam triticum.

[99] Novel. 123. c. 11. (t. 5. p. 546.) Omnibus autem episcopis et presbyteris interdicimus, segregare aliquem a sacra communione, antequam causa monstretur propter quam sanctæ regulæ hoc fieri jubent. Si quis autem præter hoc a sancta communione quenquam segregaverit: ille quidem, qui injuste a communione segregatus est, solutus excommunicatione a majore sacerdote, sanctam mereatur communionem. Qui vero aliquem a sancta communione segregare præsumpserit: modis omnibus a sacerdote, sub quo constitutus est, separabitur a communione quanto tempore ille perspexerit: ut quod injuste fecit, juste sustineat.

[1] Cont. Lit. Parmenian. l. 3. c. 2. (t. 6. p. 64 b.) Quando ita cujusque crimen notum est omnibus, et omnibus exsecrabile apparet ..... non dormiat severitas disciplinæ, &c.

[2] Serm. 22. de Verb. Apost. [al. 164. c. 8. Oper. Augustin. t. 5. p. 794.] ap. Gratian. caus. 23. quæst. 4. c. 11. (t. 1. p. 1300. 63.) Sane si judex es, si judicandi potestatem accepisti, ecclesiastica regula, si apud te accusatur, si veris documentis testibusque convincitur, coerce, corripe, excommunica, degrada. Sic vigilet tolerantia, ut non dormiat disciplina.

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lawfully, to punish, correct, excommunicate, or degrade him. But otherwise, without such legal conviction, no bishop could suspend a clerk from communion, unless he contumaciously refused to appear to have his cause examined before him. 'And this,' St. Austin[3] says, 'was determined in council for greater security against arbitrary proceedings.' And it is observable in this case, that the Canons[4] never allowed the testimony of one single witness as sufficient evidence to convict a criminal; grounding upon that rule in the divine Law, "In the mouth of two or three witnesses shall every word be established." [Deut. 19, 15; with 2 Cor. 13, 1.] Nay, though it were a bishop or presbyter that accused any man, barely upon his own knowledge, his testimony was not sufficient ground to proceed against him to excommunication. For as we have heard St. Austin say but just now, no man could be both accuser and judge. And therefore it was provided by the Council of Vaison[5], 'that though a bishop knew a man to be a criminal, yet if he alone was privy to his crime, and could make no other proof of it, he should not so much as publish it, but deal privately with the man by admonition to bring him to repentance. But if, notwithstanding his admonition, he would persist pertinacious, and offer himself publicly to communicate, the bishop should not have power to excommunicate or cast him wholly out of the Church, but only enjoin him to recede

[3] Ep. 137. [al. 78.] (t. 2. p. 184 d.) In episcoporum concilio constitutum est, nullum clericum, qui nondum convictus est, suspendi a communione debere, nisi ad caussam suam examinandam se non præsentaverit.

[4] Vid. C. Apost. 75. [al. 74.] (Cotel. [c. 67.] v. 1. p. 447.) *Εἰς μαρτυρίαν τὴν κατ' ἐπισκόπου αἱρετικὸν μὴ προσδέχεσθε, ἀλλὰ μηδὲ πιστὸν ἕνα μόνον· Ἐπὶ στόματος [γὰρ] δύο καὶ [al. ἢ] τριῶν μαρτύρων σταθήσεται πᾶν ῥῆμα.* [Cf. C. Ilerdens. ap. Crabb. ex Ivon. l. 7. [et ex Sept. Libr. Vetusti Codicis Librorum Sedecem. num. 5. (t. 1. p. 1031.) Ut omnis controversia, quæ de ecclesiasticis rebus fit, secundum divinam legem (Deut. 19, 15.) sub duobus vel tribus testibus terminetur, testis est Dominus cum dicit (Matth. 18, 16. 2 Cor. 13, 1.) Non unus stet contra alium, sed in ore duorum vel trium testium stet omne verbum. Ed.]

[5] Vasens. 1. c. 8. (t. 3. p. 1458 e.) Si tantum episcopus alieni sceleris se conscium novit, quamdiu probare non potest, nihil proferat, sed cum ipso ad compunctionem ejus secretis correptionibus elaboret. Quod [al. qui] si correptus pertinacior fuerit, et se communione publice ingesserit, etiam si episcopus in redarguendo illo, quem reum judicat, probatione [al. probationibus] deficiat, indemnatus licet ab his, qui nihil sciunt, secedere ad tempus pro persona majoris auctoritatis jubeatur, illo, quamdiu probari nihil potest, in communione omnium, præterquam ejus, qui eum reum judicat, permanente.

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for a time out of respect to the bishop's person, whilst he continued in the communion of all those, who knew nothing of his offences.'

And even this was a greater deference paid to the single testimony of a bishop, than was allowed in the African Churches. For there, by a rule of the seventh Council of Carthage[6], made in St. Austin's time, 'if a man confessed his crime to a bishop, and afterwards denied it, the bishop was not to think he had any injury done him, if his single evidence was not taken by his fellow-bishops to the man's condemnation: and if in such a case the bishop presumed to excommunicate him, upon a scruple of conscience, that he could not communicate with such an one, the bishop himself was not to communicate with other bishops, that he might learn to be more cautious in saying that against any man, which he could not prove by any other evidence but his own testimony.' So tender were these holy bishops of condemning any man without sufficient and legal evidence to convict him.

St. Austin[7], who was present in this Council, tells a remarkable story of a case of this nature, that happened between Boniface, one of his presbyters, and a man that was accused by him. Having no sufficient evidence, but only their single testimony on either side, he would not determine the matter between them, but ordered them both to go to the sepulchre of Felix, the martyr, in hopes that the cause might be decided by some apparent miracle and divine judgment, where human judgment could not determine it, as he says he had known it done, in a case of theft at Milan. He adds, that both the ecclesiastical and civil law forbad the condemning any man upon

[6] C. 5. (t. 2. p. 1604 d.) Placuit, ut si quando episcopus dicit, aliquem sibi soli proprium crimen fuisse confessum, atque ille neget: non putet ad injuriam suam episcopus pertinere, quod ipsi [al. illi] soli non creditur: et si scrupulo propriæ conscientiæ se dicit neganti nolle communicare, quamdiu excommunicato non communicaverit suus episcopus, eidem episcopo ab aliis non communicetur episcopis; ut magis caveat episcopus, ne dicat in quenquam, quod aliis documentis convincere non potest.—Conf. Cod. Afric. cann. 133, 134. [al. 132. 133.] (t. 2. p. 1134 e.) Ὁμοίως ἤρεσεν, κ.τ.λ.—Augustin. Hom. 16. de Verb. Dom. See before, s. 8. n. 86, preceding.

[7] Ep. 137. [al. 78. n. 3. tot.] (t. 2. p. 183 e. et p. 184 a.) Multis enim notissima est sanctitas loci, ubi beati Felicis Nolensis corpus conditum est, quo volui ut pergerent, &c.—Ibid. n. 4. (p. 184 d.) Quod nec in negotiis sæcularibus judices faciunt, quando causæ dubitatio ad majorem potestatem refertur, &c.

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the evidence of a single witness, as insufficient to convict him. The ecclesiastical law we have already heard; and for the civil law, it is probable he refers to a decree of Constantine, now exstant in the Theodosian Code[8], which precisely enjoins all judges not to determine any cause upon the evidence of a single witness, though it were even a senator that was the deponent. Which Gothofred compares to a noted saying among the old Romans, related by Plutarch, that it was not right to give credit to one witness, though it were Cato himself that gave testimony. Whence Gothofred[9] also with great reason concludes, that the law which goes under the name of Constantine, at the end of the Theodosian Code, allowing the single testimony of a bishop to be good evidence, is a spurious law, though it be inserted into the Capitular of Charles the Great[10] and Gratian's Decree[11], because it contradicts all other laws, both ecclesiastical and civil, upon this subject.

It is worth observing further, that, to secure the innocence of virtuous men from being unjustly traduced and censured, there were many laws forbidding the testimony of heretics, or other suspected and infamous persons, to be accepted in judgment, of which, because I have had occasion to discourse of them elsewhere[12], I say no more in this place. But from all that has now been said it sufficiently appears, that though the Ancients were very strict and severe in their discipline, yet they were

[8] L. 11. tit. 39. de Fide Testium, leg. 3. (t. 4. p. 322. ad sum.)..... Manifeste sancimus, ut unius omnino testis responsio non audiatur, etiam si præclaræ curiæ honore præfulgeat.

[9] In Cod. Theod. l. 11. tit. 39. leg. 3. (ibid. p. 323. ad calc. col. dextr.) Et tamen sub Constantini Magni nomine proponitur lex 1. infra, *de Episcopali Judicio*, qua definitur, *Testimonium, etiam ab uno licet episcopo perhibitum, omnes judices indubitanter accipere oportere, nec alium audiri; cum testimonium episcopi a qualibet parte fuerit repromissum:* additis his, *Illud est enim veritatis auctoritate firmatum, illud incorruptum, quod in sacrosancto homine conscientia mentis illibatæ protulerit.* Idque ita relatum Capitular. lib. 6. c. 281. et a Gratiano, c. Omnes, 11. quæst. 1. Verum ut de tota lege illa, ad eam dixi; ita et hoc suspectum est. Nam et id contrarium est peremptoriis hujus legis verbis, quæ sub extremis Constantini annis ab eo lata est, et Dei verbo, quod Constantinus M., ut alias, ita et hic, secutus est: Deut. 19, 15.—L. 16. tit. 12. [al. Extravagans,] leg. 1. (t. 6. p. 306. ad calc. col. dextr.) Sequitur alterum: de testimonio unius episcopi, &c.

[10] L. 6. e. 281. [al. 366.] (Capitul. Reg. Francor. t. 1. p. 986.) Testimonium etiam ab uno licet episcopo perhibitum, &c.

[11] Caus. 11. quæst. 1. c. 36. (. 1. p. 911. 62.) Testimonium, etiam ab uno licet episcopo perhibitum, omnes judices indubitanter accipiant, &c.

[12] B. 5. ch. 1. s. 5. v. 2. p. 110.

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equally cautious that the severity of it should not affect the innocent, and every man was presumed to be innocent till a just and legal proof could be made against him: nor was this an harm to the Church, it being better that some vicious men should escape, than that virtuous men should be exposed to the greatest of all punishments upon bare suspicion, or the arbitrary pleasure of any one man; for which reason also, as I have often noted, the Church still allowed an appeal from the unjust sentence of any bishop to the re-examination of a provincial Council.

Excommunication not ordinarily inflicted upon minors or children under age.

11. Another sort of persons, whom the censures of the Church seldom or never touched, were minors, or children under age: there being more proper punishments thought fit for them, such as fatherly rebukes and corporal correction: and to inflict the highest censures upon such, was rather thought a lessening of authority, and bringing contempt upon the discipline of the Church. Therefore Socrates[13] observes of Arsenius, the Egyptian abbot, 'that he was never used to excommunicate any junior monks, but only those that had made a greater proficiency: for a young man, when he is excommunicated, only becomes a despiser.' Palladius[14] observes the same of the discipline of the great church of Mount Nitria, that they had three whips hung up in the church, one for chastising the offending monks, another for robbers, and a third for strangers, that came accidentally and behaved themselves disorderly among them. So in the Rule of Isidore of Seville[15], one article is, 'that they who were in their minority should not be punished with excommunication, but according to the quality of their negligence or offence be corrected with congruous stripes.' The late author of the *Historia Flagellantium*[16] cites the Rule of Macarius[17], and that of St. Bene-

[13] L. 4. c. 23. See before, b. 7. ch. 3. s. 12. v. 2. p. 372. n. 78.

[14] Hist. Lausiac. c. 6. See before, ibid. n. 81.

[15] Regul. c. 17. (p. 495 b.) In minori ætate constituti non sunt coercendi sententia excommunicationis, sed pro qualitate negligentiæ congruis emendandi sunt plagis.

[16] Cc. 5. et 6. (Paris. 1700. pp. 95, seqq.)

[17] Regul. c. 15. (ap. Hist. Flagellant. ut supr. p. 145.) Si vero aliquis deprehensus fuerit in risu vel in *scurrilitate sermonis*, sicut ait Apostolus, *quæ ad rem non pertinet*, jubemus hujusmodi duarum hebdomadarum spatio, in nomine Domini omni flagello humilitatis coërceri.—[The author of the History argues against the Flagellants that the *omni flagello humilitatis* is to be un-

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dict[18], and Aurelian[19], and Gregory the Great[20], to the same purpose. And Cyprian, [Gallus, or Tolonensis,] in the Life of Cæsarius Arelatensis[21], says, that bishop observed this method both with slaves and freemen, 'that when they were to be scourged for their faults, they should suffer forty stripes save one, according as the law appointed.' The Council of Agde[22] orders the same punishment not only for junior monks, but also for the inferior clergy. And the Council of Mascon[23] particularly insists upon the number of *forty stripes save one.* The Council of Vannes[24] repeats the canon of Agde. And the Council of Epone[25] speaks of stripes as the peculiar punishment of the minor clergy for the same crimes that were punished with excommunication for a whole year in the superior

derstood in a figurative sense. Ed.] —Conf. ibid. [Reg. Tert. S. Patr. n. 13.] Si quis vero monachus furtum fecerit, quod potius sacrilegium dici potest, id censuimus ordinandum, ut junior virgis cæsus, tanti criminis reus neutiquam officium clericatus excipiat, &c.

[18] Regul. c. 70. (ibid. p. 156.) Ut nulli liceat quenquam fratrum excommunicare aut cædere, nisi cui potestas ab abbate data fuerit. Infantibus vero usque ad quintum decimum annum ætatis, disciplinæ diligentia adhibeatur et custodia sit omnibus. — [The author contends that this rule also was not to be taken as literally as the Flagellants implied. Ed.]

[19] Regul. c. 41. (ibid. p. 172.) Pro qualibet culpa si necesse fuerit flagelli accipere disciplinam, nunquam legitimus excedatur numerus, id est, triginta novem.—[Conf. ibid. c. 17. Regul. S. Isidor. (p. 172.) Si pro qualitate negligentiæ congruis emendendi sunt plagis, ut quos ætatis infirmitas a culpa non revocat, flagelli disciplina compescat. The literal meaning of *these* words the author of the History does not dispute. Ed.]

[20] L. 9. Ep. 66. (CC. t. 5. p. 1478 c.) Quia ergo tantæ nequitiæ malum sine digna non debet ultione transire, supra scriptum . . . Paschasium episcopum volumus admoneri, ut eundem Hilarium prius subdiaconatus, quo indignus fungitur, privet officio, atque verberibus publice castigatum faciat in exsilium deportari, ut unius pœna multorum possit esse correctio.

[21] C. 11. ap. Hist. Flagellant. ibid. p. 103. et ap. Surium, 27. Aug. (t. 4. p. 947.) Solebat vir sanctus id accurate observare, ut nemo ex illis qui ipsi parebant, sive servi illi essent sive ingenui, si pro culpa sua flagellandi essent, amplius triginta novem ictibus ferirentur.

[22] C. 38. (t. 4. p. 1389 d.) Si verborum increpatio non emendaverit, etiam verberibus statuimus coerceri.—C. 41. (ibid. c.) Quem ebrium fuisse constituit, ut ordo patitur aut triginta dierum spatio a communione statuimus submovendum, aut corporali subdendum supplicio.

[23] Matiscon. 1. c. 8. (t. 5. p. 968 d.) Si junior fuerit, uno minus de quadraginta ictus accipiat.

[24] C. 6. (t. 4. p. 1055 d.) In monachis quoque par sententiæ forma servetur, quos si verborum increpatio, &c.

[25] C. 15. (ibid. p. 1578 a.) Si superioris loci clericus hæretici cujuscunque clerici convivio interfuerit, anni spatio pacem ecclesiæ non habebit. Quod juniores clerici si præsumpserint, vapulabunt.

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clergy. Nor is this to be wondered at in these Councils, since St. Austin[26] assures us, this kind of punishment by stripes was commonly used, not only by schoolmasters and parents, but by bishops in their consistories also. And the plain reason of all this seems to be, not so much the distinction of crimes, as the distinction of age and quality in the persons.

How persons were sometimes excommunicated after death.

12. Another inquiry may be made concerning persons deceased,—Whether ever any excommunication was inflicted on men after death, if they died in the peace and communion of the Church? It has already been observed[27], that when men died impenitent under the bonds of excommunication unrelaxed, a necessary consequence of that was the denying them Christian burial, and all future memorial in the prayers and oblations of the Church, by striking their names out of the diptychs or holy books, which kept the memorial of such as died in the peace and communion of the Church. But the question here is not about those that died so excommunicate, but those that died in the visible communion and external peace of the Church, and under no ecclesiastical censure, whether upon any new discovery of their errors or crimes after death, they were liable to be excommunicated, and after what manner that censure was passed upon them?

Now the resolution of this question in part will easily be given from a famous case in Cyprian concerning one Geminius Victor, who, contrary to the rule of a Council, had made Geminius Faustinus a guardian or trustee by his last will and testament; for which transgression, Cyprian[28], after his death, wrote to the Church of Furni, where he had lived, to put the sentence of the Council in execution against him; telling them, 'that since Victor had presumed, against the rule made in

[26] Ep. 159. [al. 133.] ad Marcellin. (t. 2. p. 396 e.) Noli perdere paternam diligentiam, quam in ipsa inquisitione servasti, quando tantorum scelerum confessionem, non extendente eculeo, non sulcantibus ungulis, non urentibus flammis, sed virgarum verberibus eruisti. Qui modus coercitionis et a magistris artium liberalium, et ab ipsis parentibus, et sæpe etiam in judiciis solet ab episcopis adhiberi.—Conf. Serm. 215. de Temp. [al. Serm. 265. append.] (t. 5. append. p. 438 b.) Si vero ad vos pertinent, etiam flagellis cædite, &c.

[27] Ch. 2. s. 11. p. 97.

[28] Ep. 66. [al. 1.] ad Cler. Furnitan. p. 3. (p. 170.) Ideo Victor, cum contra formam nuper in concilio a sacerdotibus datam, Geminium Faustinum presbyterum ausus sit tutorem constituere, non est quod pro dormitione ejus apud vos fiat oblatio aut deprecatio aliqua nomine ejus in ecclesia frequentetur.

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Council, to appoint Geminius Faustinus, one of the presbyters of the Church, his trustee, for this offence no oblation ought be made for his death, nor any prayer to be offered in his name in the Church, according to the custom of praying then for all that were departed in the faith.' This was a plain excommunication of him after death, by erasing his name out of the diptychs of the Church. Such another decree we find in the African Code[29] against any bishop that should make heretics or Heathens his heirs, whether they were of his own kindred or not: 'Let such an one be anathematized after death, and let not his name be written or recited among the priests of God.' With this agrees what St. Austin says more than once[30] concerning Cæcilian, bishop of Carthage, 'that if the things which the Donatists objected against him were true, and they could evidently prove them, the Catholics were ready to anathematize him after death.' And there want not in fact several instances of this practice. For thus Origen, as Socrates[31] says, was excommunicated two hundred years after his death by Theophilus, bishop of Alexandria. And Theodorus of Mopsuestia was so anathematized by the fifth general Council, as appears from Evagrius[32], and the Letters of Justinian[33], and the Acts of the Council. In like manner the sixth general Council[34] anathematized Pope Honorius as a Monothelite, after

[29] C. 82. [al. 81.] (t. 2. p. 1098 b.) *Μετὰ θάνατον ἀνάθεμα τοιούτῳ λεχθείη, κ. τ. λ.*

[30] Ep. 1. p. 80. [al. 185. c. 1.] ad Bonifac. (t. 2. p. 644 d.) .... Si vera essent, quæ ab eis objecta sunt Cæciliano, et nobis possent aliquando monstrari, ipsum jam mortuum anathematizaremus.—Ep. 152. [al. 141.] Quæ est Epistola Synodica Concilii Cirtensis [al. Zertensis] ad Donatistas. (t. 2. p. 458 d.) .... Si forte malus esset inventus, ipsum anathematizaremus.

[31] L. 7. c. 45. (v. 2. p. 393. 30.) *Θαυμάσαι δέ μοι ἔπεισι, πῶς ὁ φθόνος Ὠριγένους μὲν τελευτήσαντος ἤψατο, Ἰωάννου δὲ ἐφείσατο· ὁ μὲν γὰρ μετὰ διακόσια ἔτη ποῦ τῆς ἑαυτοῦ τελευτῆς ὑπὸ Θεοφίλου ἀκοινώνητος γέγονεν· Ἰωάννης δὲ τριακοστῷ πέμπτῳ ἔτει μετὰ τὴν τελευτὴν εἰς κοινωνίαν ὑπὸ Πρόκλου ἐδέχθη.*

[32] L. 4. c. 38. (v. 3. p. 419. 17.) See before, ch. 2. s. 11. p. 100. n. 13.

[33] Ep. in Act. 1. C. 5. Gen. (CC. t. 5. p. 423 c.) Ex his etenim omnibus cognoscetis, quod ab illo tempore condemnatus est tam ipse [Theodorus], quam blasphemiæ ejus a sanctis patribus; et quod propter istas superioribus temporibus deletum est et nomen ejus a sacris diptychis ecclesiæ, cujus fuit episcopus. Hortamur autem [vos] etiam illud disceptare, quod vane profertur ab eis, qui dicunt, non oportere post mortem hæreticos anathematizari; et sequi in hoc doctrinam sanctorum patrum, qui non solum viventes hæreticos condemnaverunt, sed et post mortem, utpote in sua impietate mortuos anathematizaverunt, sicut eos, qui injuste condemnati sunt, revocaverunt post mortem, et in sacris diptychis scripserunt.

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death, together with Cyrus, bishop of Alexandria, and Theodorus, bishop of Pharan, and Sergius, Pyrrhus, Petrus, and Paulus, bishops of Constantinople, all whose names were erased out of the sacred diptychs after death by the order of that Council.

It is a grand dispute indeed among the gentlemen of the Church of Rome, whether the name of their Pope Honorius ought to stand in that black list? Baronius[35] affirming, that the Acts of the Council, where his name is inserted, are corrupted: and Combefis[36], on the other hand, writing a whole volume against Baronius to prove them genuine. But however that matter be, there is no dispute about all the rest; but that they were certainly anathematized by that Council after death. Sometimes men were unjustly excommunicated either living or dead: and then the way to restore them to the communion of the Church was to insert their names into the diptychs, whence they had been expunged before. Thus Theodoret[37] says Atticus restored the name of Chrysostom, after it had for many years been left out. And John, bishop of Constantinople, in a synod, anno 518, restored[38] the names of Pope Leo, and Euphemius, and Macedonius, and the Council of Chalcedon, which by the fraud of Anastasius, the emperor, who was an Eutychian heretic, had all been cast out of the diptychs of the Church. This was the method both of condemning and restoring men to the communion of the Church after death. To deny them Christian burial, or not to receive their oblations, or to erase their names out of the diptychs, was the same thing as to declare them anathematized and cast out of the communion of the faithful, with whom the Church maintained communion after death.

And so far we have considered *the persons* that might or might not be the subjects of ecclesiastical censures, whether living or dead.

13. The next inquiry is concerning *the crimes* for which these censures might be inflicted. And here the canons are

The censures of the Church not

[34] Act. 13. (t. 6. pp. 939, seqq.)

[35] An. 680. n. 34. [al. n. 36.] (t. 8. p. 539 e.) Sed vel hac ex parte, &c.

[36] Hist. Monothelit. [nempe, Auctarium Novum, t. 2.] Paris. 1648.

[37] L. 5. c. 35. (v. 3. p. 235. 38.) Οὗτος τὴν Ἰωάννου τοῦ πάνυ προσηγορίαν πρῶτος τοῖς ἐκκλησιαστικοῖς διπτύχοις ἐνέταξε.

[38] Vid. Act. C. Constant. sub Menna, Act. 5. (t. 5. p. 164 c. p. 165 b, c, d. p. 172 b, c.)

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to be inflicted for small offences.

wont to make a very exact and nice distinction in general between the greater and lesser sins, the former only being such as were regarded in the business of excommunication: for this being the severest of all punishments was not to be inflicted for every trifle. 'Therefore bishops,' says the Council of Agde[38], 'must have a great regard to sacerdotal moderation, and not presume to excommunicate either the innocent or those that are guilty only of small offences. Otherwise they are liable to be admonished by the neighbouring bishops of the province; and if they obey not, the bishops of the province are to refuse them their communion till the next synod.' Some copies[39] read it, 'They shall not be denied communion till the next synod:' and then it refers to the persons excommunicated, that though they were rashly cast out of the Church for slight causes by their own bishops, the rest of the bishops should not deny them communion till their cause was heard in a synod. The fifth Council of Orleans[40] has a like

[38] C. 3. (t. 4. p. 1383 c.) Episcopi, si, sacerdotali moderatione postposita, innocentes, aut minimis causis culpabiles, excommunicare præsumpserint, ... a vicinis episcopis cujuslibet provinciæ literis moneantur. Et, si parere noluerint, communio illis usque ad tempus synodi a reliquis episcopis denegetur [al. non denegetur].—See Gratian, caus. 11. quæst. 3. c. 8. (t. 1. p. 923. 68.) where this canon is cited, and what the Roman Correctors observe of this various reading. [They say (ibid. 6.) on the reading *denegetur*, which they approve, *Sic habent Ivo et Pannormia et antiquiores Conciliorum editiones, et duo Vaticana exemplaria: videturque huic simile quod legitur supra, 6. q. 2 c. fi.; sed in recentioribus editionibus est* non denegetur. Conf. caus. 6. quæst. 2. c. 3. (ibid. p. 808. 15.) Placuit ut, si quando episcopus dicit aliquem sibi soli proprium crimen confessum, atque ille neget, non putet ad injuriam suam episcopus pertinere, quod illi non creditur. Et si scrupulo propriæ conscientiæ se dicit neganti nolle communicare, quamdiu excommunicato non communicaverit suus episcopus, eidem episcopo non communicetur episcopis, ut magis caveat episcopus ne dicat in quempiam, quod aliis documentis convincere non potest. Ed.]

[39] [See Crabbe's Edition, (t. 1. p. 615.) where the canon in question reads thus: Episcopi vero, si, sacerdotali moderatione postposita, innocentes aut minimis causis culpabiles excommunicare præsumpserint, aut ad gratiam festinantes recipere fortasse noluerint, a vicinis episcopis cujuslibet provinciæ literis moneantur. Et, si parere noluerint, communio illis (viz. the *innocentes, &c.* as above,) usque ad tempus synodi a reliquis episcopis non denegetur: ne forte, propter excommunicatoris peccatum, excommunicati longo tempore morte præveniantur.—This last clause is exegetical of the *non denegetur communio*, and makes it plain, that in such cases the Church inclined to the side of charity, and did not exclude such persons, when thus harshly treated by their own bishop, from the comfort of communion, at all events till the next synod should decide their point. Ed.]

[40] C. 2. (t. 5. p. 391 e.) Nullus sacerdotum quenquam rectæ fidei hominem pro parvis et levibus causis

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order, 'That no bishop shall suspend any of the faithful from the communion for little and slight causes, but only for those crimes, for which the ancient Fathers command offenders to be cast out of the Church.' And this is repeated in the Council of Arvern or Clermont[41], held about the same time, anno 549.

What the Ancients meant by small offences in this matter, and how they distinguished them from the greater.

14. But it may be asked, What the ancient Fathers meant by *slight causes* and *small offences* in this business of ecclesiastical censure? And how they distinguished these from those greater crimes, which made men liable to excommunication and public penance in the Church? The right understanding of these things will be of great use, not only to give us a clear view of the nature of ecclesiastical discipline, but also to show the vanity of a late distinction between mortal and venial sin, as used by the Romanists, to bring all sins that are mortal under the necessity of auricular confession and private absolution. Now it is certain the Ancients did not believe any sins to be venial, as that signifies needing no pardon, but, in that sense, all sins to be mortal in their own nature, and such as we have need to ask pardon for at the hands of God. But because there are some sins of human frailty and inadvertency in the best of men, and sins of daily incursion, without which no man lives; these they usually call *venial sins*, as needing no other repentance but a general confession; nor any other pardon but what is daily granted by God to good men upon their daily prayers and acknowledgment of their offences. Besides these, there are other sins of wilfulness, and of a more malignant nature, which if continued in without a particular repentance and reformation will prove mortal, and exclude men from the kingdom of heaven: and yet many of these were such as did not ordinarily bring men under the highest censures of the Church, but were to be cured only by general reproofs and exhortations to repentance. These also in like manner, with respect to the severity of Church-discipline which did not reach them, were sometimes termed *lesser* and *venial sins*, in opposition to those yet more heinous sins, which brought men under excommunication and public penance

a communione suspendat: præter eas culpas, pro quibus antiqui patres arceri ab ecclesia jusserunt committentes.

[41] Avernens. 2. c. 2. (ibid. p. 402 b.) Ut nullus sacerdos, &c.

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to make expiation and atonement for them. These sins were mortal in their own nature, and fatal in the effect to the sinner: but yet the Church for many reasons was obliged sometimes to let them pass, without any other censure than a pastoral admonition. But there was a third sort of sins both of a malignant, and public, and flagrant nature, of which sinners might easily be impleaded and convicted: and these were those *great sins*, as they are usually termed in opposition to both the forementioned kinds, on which the highest severities of Church-discipline were exercised, unless where the multitude of sinners, or their abettors, or the danger of schism, as has been noted before[41], made the thing impracticable and unfeasible.

This threefold distinction of sins is accurately noted by St. Austin in his Book of Faith and Works[42]: he says, 'there are some sins so great as to deserve to be punished with excommunication, according to that of the Apostle, "To deliver such an one unto Satan for the destruction of the flesh, that the spirit may be saved in the day of the Lord." [1 Cor. 5, 5.] Again, there are other sins which are not to be cured by that humiliation of penance, which is imposed upon those who are properly called *penitents* in the Church, but by certain medicines of reproof, according to that of our Lord, "Tell him of his fault between him and thee alone; if he hear thee, thou hast gained thy brother." [Matth. 18, 15.] Lastly, there are other sins for which he had left us a daily cure in that prayer, wherein he hath taught us to say, "Forgive us our trespasses, as we forgive them that trespass against us."' By this it is plain that all great and deadly sins did not bring men under the public censure of excommunication, but only those of the first kind, which were of the highest nature.

In other places he distinguishes sins only into two kinds, greater and lesser; sins that obliged men to do public penance,

[41] See s. 6, of this chapter, p. 146.

[42] C. 26. (t. 6. p. 191 c.) Sed nisi essent quædam ita gravia, ut etiam excommunicatione plectenda sint, non diceret Apostolus: *Congregatis vobis et meo spiritu, tradere ejusmodi hominem Satanæ, &c.* Item nisi essent quædam non ea humilitate pœnitentiæ sananda, qualis in ecclesia datur eis, qui proprie pœnitentes vocantur, sed quibusdam correptitionum medicamentis, non diceret ipse Dominus, *Corripe inter te et ipsum solum, &c.* Postremo, nisi essent quædam, sine quibus hæc vita non agitur, non quotidianam medelam poneret in oratione quam docuit, ut dicamus, *Dimitte nobis debita nostra, sicut nos dimittimus debitoribus nostris.*

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and sins that were pardoned by daily prayer, weeping, fasting, giving and forgiving, without any obligation to do public penance for them. The former he calls *mortal sins*, and the other *venial;* not because they were not mortal in their own nature, but because they were pardoned without the solemnity of a public repentance. So many great sins, such as anger, and evil thoughts, and evil speaking, and excess in the use of lawful things, are reckoned by him in the number of lesser sins, in comparison of such great and deadly sins, as murder and theft and adultery. 'He that is free,' says he[43], 'from great and mortal sins, such as the crimes of murder, theft, and adultery, yet being liable to many lesser sins of the tongue and thoughts, and immoderate use of lawful things, he thereupon exercises himself in making true confession of them, and comes to the light by performing good works; because a multitude of lesser sins, if they be neglected, kill the soul. Many small drops fill a river: a grain of sand is but a small thing, but many grains added together will load and oppress us. The pump of a ship, if it be neglected, will do the same thing as a boisterous wave. It enters by little and little at the pump, but by long entering, and never draining, at last it sinks the ship. And what is it to drain the soul, but by good works, such as mourning, and fasting, and giving and forgiving, to take care that such sins do not overwhelm the soul?' The lesser sins he here speaks of were not only sins of inadvertency and common human frailty, but sins of an higher nature: and yet he calls them *little sins*, in comparison of those great and deadly sins of adultery and murder, for which men underwent public penance, which they did not for these other sins, which yet would prove fatal, unless men took care, by confession and godly sorrow and fasting, and almsdeeds, and charity to their enemies, to clear themselves of them.

[43] Tractat. 12. in Ioan. p. 47. (t. 3. part. 2. p. 390 c.) Liberatus ab illis lethalibus et grandibus peccatis, qualia sunt facinora, homicidia, furta, adulteria, propter illa, quæ minuta videntur esse, peccata linguæ, cogitationum, aut immoderationis in rebus concessis, facit veritatem confessionis, et venit ad lucem in operibus bonis: quoniam minuta plura peccata, si negligantur, occidunt. Minutæ sunt guttæ, quæ flumina implent, minuta sunt grana arenæ: sed si multa arena imponetur, premit atque opprimit. Hoc facit sentina neglecta, quod facit fluctus irruens: paulatim per sentinam intrat, sed diu intrando et non exhauriendo mergit navim. Quid est autem exhaurire, nisi bonis operibus agere ne obruant peccata, gemendo, jejunando, tribuendo, ignoscendo.

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In another place[44] he speaks of two sorts of repentance for two sorts of sins committed after baptism, which he thus distinguishes: 'There is one sort of repentance which is to be performed every day. And whence can we show that? I cannot better show it than from the daily prayer, where our Lord hath taught us to pray, and shown us what we are to say unto the Father, in these words, "Forgive us our trespasses, as we forgive them that trespass against us." There is another more weighty and mournful sort of repentance, from which men are properly called *penitents* in the Church; by which they are sequestered from partaking of the sacrament of the altar, lest they should eat and drink damnation to themselves. This is a grievous repentance, the wound is very grievous, perhaps adultery, or murder, or sacrilege has been committed. This is a grievous thing, a grievous wound, mortal and deadly, but the physician is almighty.' Here again is a plain distinction between such great sins as adultery, sacrilege, and murder, for which men were to do a long and public penance in the Church; and such sins of a lower rank, as were to be done away by daily prayer and daily repentance, which was the remedy for all sins, great and small, that were not of the highest nature. Upon this account he calls public penance by the name of *pœnitentia major, the greater repentance*, for great and deadly sins, in opposition to the lesser or daily repentance for sins of a lower nature, which he terms *venial sins*, because they were more easily pardoned by that ordinary and daily repentance. Thus in his Instructions to the Catechumens[45], directing them how to lead their lives after baptism,

[44] Hom. 27. ex 50. t. 10. p. 177. [al. Serm. 352. c. 2.] (t. 5. p. 1369 d.) Est alia quippe [scil. pœnitentia] quotidiana. Et ubi illam ostendimus pœnitentiam quotidianam? Non habeo ubi melius ostendam, quam in oratione quotidiana, ubi Dominus orare nos docuit, &c.—Ibid. c. 3. (p. 1370 f, g.) Est pœnitentia gravior atque luctuosior, in qua proprie vocantur in ecclesia pœnitentes: remoti etiam a sacramento altaris participandi, ne accipiendo indigne judicium sibi manducent et bibant. Illa ergo pœnitentia luctuosa est. Grave vulnus est: adulterium forte commissum est, forte homicidium, forte sacrilegium. Gravis res, grave vulnus, lethale, mortiferum, sed omnipotens medicus, &c. [Conf. Hom. 50. ibid. c. 3. n. 6. et c. 4. n. 7. pp. 1355, 1356. al. Serm. 351. c. 3. n. 5. (t. 5. p. 1355 e.) Quæ quamvis singula, &c.: while c. 4. n. 7. ibid. (p. 1356 e.) speaks of the *tertia pœnitentia severior pro peccatis mortiferis*. Ed.]

[45] De Symbolo ad Catechumenos, l. 1. c. 7. t. 9. (t. 6. p. 554 g.) Non vobis dico, quia sine peccato hic vivetis: sed sunt venialia, sine quibus vita ista non est. Propter omnia

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he tells them, 'He did not prescribe them an impossible rule, to live here altogether free from sin: for there were some lesser or more pardonable sins, without which this life is not passed by any. Baptism was appointed for the remission of all sins, of what kind soever: but for lesser sins prayer was appointed. And what says the prayer? "Forgive us our trespasses, as we forgive them that trespass against us." We are once washed, or cleansed from sin by baptism, we are daily cleansed by prayer. Only do not commit such things, for which it will be necessary to separate you from the body of Christ, which God forbid. For they, whom you see doing penance, have committed great crimes, either adultery or some such heinous wickedness, upon account of which they are doing penance. For if they had been light sins, the daily prayer would have been sufficient to blot them out. Therefore there are three ways by which sins are forgiven in the Church; by baptism, by prayer, and by the humiliation of the greater repentance.' Where by the greater repentance it is evident he means the public penance done in the Church for crimes only of the highest nature: and therefore the lesser repentance, accompanying men's daily prayers, was sufficient to blot out both lesser sins of daily incursion, and also greater sins, for which

peccata baptismus inventus est: propter levia, sine quibus esse non possumus, oratio inventa. Quid habet oratio? *Dimitte nobis debita nostra, sicut et nos dimittimus debitoribus nostris.* Semel abluimur baptismate, quotidie abluimur oratione. Sed nolite illa committere, pro quibus necesse est ut a Christi corpore separemini; quod absit a vobis. Illi enim, quos videtis agere pœnitentiam, scelera commiserunt, aut adulteria, aut aliqua facta immania: inde agunt pœnitentiam. Nam si levia peccata ipsorum essent, ad hæc quotidiana oratio delenda sufficeret. Ergo tribus modis dimittuntur peccata in ecclesia, in baptismate, in oratione, in humilitate majore [sic MSS., editi vero *majoris*] pœnitentiæ. [Conf. Hom. 119. de Temp. c. 8. [al. Serm. 213.] (t. 5. p. 942 d, e.) Si, quoniam victuri sumus in isto sæculo, ubi quis non vivit sine peccato, ideo remissio peccatorum non est in sola ablutione sacri baptismatis, sed etiam in oratione Dominica et quotidiana, &c. —Ep. 89. quæst. 1. [al. 157. c. 1.] ad Hilar. (t. 2. p. 543 d, e.).... Qui misericordia Dei adjutus et gratia se ab eis peccatis abstinuerit, quæ etiam crimina vocantur, atque illa peccata, sine quibus non hic vivitur, mundare operibus misericordia et piis orationibus non neglexerit, &c. Quisquis autem .... dederit se libidinibus, et criminibus nefariis obligaverit,.... quaslibet inter hæc eleemosynas faciat, et infeliciter ducit vitam, et infelicius finit.—Ep. 108. [al. 265.] ad Seleucian. (ibid. p. 898 e, f.) Est etiam pœnitentia bonorum et humilium fidelium pene quotidiana in qua pectora tundimus, dicentes, *Dimitte nobis, &c.* Neque enim ea nobis dimitte volumus, quæ dimissa non dubitamus in baptismo; sed illa utique quæ humanæ fragilitate, quamvis parva, tamen crebra subrepunt, &c. Ed.]

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no public penance was required, but only the sincere reformation of the sinner, producing good works, and especially works of charity and mercy. Thus in his Enchiridion[46]: 'For daily, short and light sins, without which no man lives, the daily prayer of the faithful is sufficient. This prayer blots out all little and daily sins. It blots out also those sins with which the life of the faithful is more egregiously defiled, provided they change it into better by true repentance; if they say truly, with actions corresponding to their words, "Forgive us our trespasses, as we forgive them that trespass against us!"'

He often distinguishes[47] between *peccatum* and *crimen*, making the first to be such sins as are forgiven by daily prayer and daily repentance; and the second such flagrant crimes as murder, adultery, fornication, theft, fraud, sacrilege, and such like, for which men were obliged to undergo public penance in the Church. And he understands the same things when he so often distinguishes[48] between greater and lesser sins, mortal sins and venial sins; prescribing public repentance for the one, and private repentance for the other. By all which it is manifest, that neither sins of human frailty and daily incursion, to which the best of men are liable, nor many sins of a more

[46] Enchirid. c. 71. (t. 6. p. 223 b.) De quotidianis, brevibus, levibusque peccatis, sine quibus hæc vita non ducitur, quotidiana oratio fidelium satisfacit.... Delet omnino hæc oratio minima et quotidiana peccata. Delet et illa, a quibus vita fidelium scelerate etiam gesta, sed pœnitendo in melius mutata discedit: si, quemadmodum veraciter dicitur, *Dimitte nobis debita nostra*, quoniam non desunt, quæ dimittuntur, ita veraciter dicatur, *Sicut et nos dimittimus debitoribus nostris*.

[47] Hom. 41. ex 50. [al. Serm. 393.] (t. 5. p. 1507 b.).... Homo baptizatus, si vitam, non audeo dicere sine peccato, quis enim sine peccato? Sed vitam sine crimine duxerit, et alia habet peccata, quæ quotidie dimittuntur in oratione dicenti, *Dimitte nobis debita nostra, &c.* Quando diem finierit, vitam non finit sed transit de vita in vitam, &c.—Tractat. 41. in Ioan. t. 9. p. 126. (t. 3. part. 2. p. 575 a.) Ideo et Apostolus Paulus quando elegit ordinandos.... non ait, *Si quis sine peccato est*: hoc enim si diceret, omnis homo reprobaretur, nullus ordinaretur; sed ait, *Si quis sine crimine est*, sicut est homicidium, adulterium, aliqua immunditia fornicationis, furtum, fraus, sacrilegium, et cætera hujusmodi.—He says a little before, (ibid. p. 574 f.) Crimen est peccatum grave, accusatione et damnatione dignissimum.—De Civitat. Dei, l. 21. c. 27. (t. 7. p. 652 b.).... Non putare nos esse sine peccatis, etiamsi a criminibus essemus immunes.

[48] Tractat. 26. in Ioan. p. 93. (t. 3. part. 2. p. 498 d.) Peccata etsi sunt quotidiana, vel non sint mortifera. Ante quam ad altare accedatis attendite, quid dicatis; *Dimitte nobis, &c.*—De Symbol. ad Catechum. l. 1. c. 7. See before, n. 45, preceding.—Cont. Julian. Pelagian. l. 2. c. 10. (t. 10. p. 548 a.) Etsi non letaliter, sed venialiter, tamen vincimur, &c.

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malignant nature, as many evil words, and evil thoughts, and excesses in the use of lawful things, and hasty anger and frequent going to law for trifles, were reckoned into the number of those flagrant crimes for which the severities of Church-discipline were inflicted upon delinquents; but all such sins, being of an inferior nature, or not so easy to be proved upon men, were only matters of reproof, and left to their own consciences to cure, either by daily prayer, or private repentance and reformation. And that this was so from the beginning appears from what the learned Du Pin [49] has discoursed upon this matter against Mr. Arnaud and others of his own communion. He observes, that all the Ancients made this very distinction, between great and little sins, and reckoned only very capital and mortal crimes in the number of such sins, as were to be punished with excommunication.

Tertullian, even when he disputes against the Church upon the point of absolution and readmission of excommunicated sinners into the Church again, owns notwithstanding, that there were many sins which did not bring men under the censure of excommunication, because they were sins of daily incursion, to which all men were more or less exposed. Among these he [50] reckons anger, when it is unjust, either in its cause, or duration, when the sun goes down upon our wrath; and also quarrelling and evil-speaking, a rash or vain oath, a failure in our promise, a lie extorted by modesty or necessity, and many such temptations which befall men in their business and offices, in gain, in eating, in seeing, and hearing. On the contrary, there are some more grievous and deadly sins, which are incapable of pardon, (according to his rigid principles of

[49] Bibliothèque, cent. 4. p. 218. (t. 2. p. 275. S. Ambroise.) Il est bon de faire remarquer en passant, comment les Pères entendent cette distinction de grands et de petits péchés. Tertullien, qui est le premier, qui en parle clairement dans son livre de la Pudicité, met au nombre des petits péchés la colère, la médisance, une serment inutile, un manque de parole, un mensonage fait par honte ou par nécessité, &c.

[50] De Pudicit. c. 19. (p. 582 b.) .... Quod sint quædam delicta quotidianæ incursionis, quibus omnes simus objecti. Cui enim non accidit aut irasci inique, et ultra solis occasum, aut et manum immittere, aut facile maledicere, aut temere jurare, aut fidem pacti destruere, aut verecundia aut necessitate mentiri; in negotiis, in officiis, in quæstu, in victu, in visu, in auditu quanta tentamur.... Sunt autem et contraria istis, ut graviora et exitiosa, quæ veniam non capiant, homicidium, idololatria, fraus, negatio, blasphemia, utique et mœchia, et fornicatio, et si qua alia violatio templi Dei.

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Montanism,) such as murder, idolatry, fraud, apostasy, blasphemy, adultery, and fornication, and other such defilements of the temple of God. In his Book against Marcion[51] he precisely reckons up seven sins, which he distinguishes by the names of *capital crimes*, idolatry, blasphemy, murder, adultery, fornication, false-witness, and fraud.

The Roman Clergy observe the same distinction between greater and lesser sins, when they, in their Epistle to Cyprian[52], style idolatry *the great sin*, and *the grand sin* above all others. And Cyprian[53] himself calls the blasphemy against the Holy Ghost *summum delictum, the highest of all crimes*, which has never forgiveness, but makes a man guilty of eternal sin: that is, a sin that was to be punished in both worlds without repentance. Which is the notion that most of the Ancients had of the sin against the Holy Ghost, (to note this by the way,) not that it was absolutely unpardonable[54], but that men were to be punished for it, both in this world and the next, unless they truly repented of it. Again, when speaking of idolatry in those that lapsed in persecution[55], Cyprian distinguishes it by the title of 'the most heinous and extreme offence.' And speaking also of adultery, fraud, and murder, he[56] calls them *mortal sins*, by way of distinction from those of a lower kind.

So Origen[57] calls some *great* and *mortal sins*, such as blasphemy, for which the Church very rarely allowed men to do penance above once: 'but there are other common sins of daily incursion, such as evil words, and other corruptions of good manners,

[51] L. 4. c. 9. (p. 419 d.).... Septem maculis capitalium delictorum inhorrerent idololatria, blasphemia, homicidio, adulterio, stupro, falso testimonio, fraude.

[52] Ap. Cypr. Ep. 26. [al. 31.] p. 63. (p. 214.).... Grande delictum. Ingens et supra omnia peccatum.

[53] Ep. 10. [al. 16.] p. 36. (p. 195.) Summum enim delictum esse quod persecutio committi coegit, sciunt ipsi etiam qui commiserunt, cum dixerit Dominus, *Qui autem blasphemaverit Spiritum Sanctum, non habebit remissam, sed reus est æterni peccati.*

[54] See afterwards, ch. 7. s. 3.

[55] Ep. 11. [al. 15.] ad Martyr. p. 34. (p. 193.).... Ante actam pœnitentiam, ante exomologesin gravissimi atque extremi delicti factam, &c.

[56] De Patient. p. 216. (p. 148.) Adulterium, fraus, homicidium mortale crimen est.

[57] Hom. 15. in Lev. t. 1. p. 174. (t. 2. p. 262 b.) Si nos aliqua culpa mortalis invenerit, quæ non in crimine mortali, non in blasphemia fidei,.... sed vel in sermonibus, vel in morum vitio,..... hujuscemodi culpa semper reparari potest.... In gravioribus enim criminibus [al. culpis] semel tantum vel raro pœnitentiæ conceditur locus: ista vero communia, quæ frequenter incurrimus, semper pœnitentiam recipiunt, et sine intermissione redimuntur.

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which admit of frequent repentance, and are redeemed continually without intermission.' Where he plainly shows, that the repentance which the Church allowed but once for great sins, means public penance in the Church: but lesser and common offences were atoned for another way, and as often as they were committed, by a daily repentance. In another place[58] he reckons up lesser sins, to which all are more or less subject, such as detraction and mutual defamation of one another, self-conceit, banquetting, lying, idle words, and such other light faults as are frequently found in men, who have made a good proficiency in the Church. These therefore could not be the sins which ordinarily subjected men to excommunication, unless we could suppose all men liable to so severe a censure. But there were other crimes, which he calls *great sins*, and *sins unto death;* such as adultery, murder, effeminacy, and defilement with mankind, which whoever committed, he was to be treated as an Heathen man or a publican.

St. Ambrose[59] makes the same distinction of sins: 'As there is but one baptism, so there is but one public penance; for we are to do penance for the sins we commit every day: but this last penance is for small sins, and the former for great ones.' And so Prosper, or Julianus Pomerius under his name[60], says, 'There are some sins so small, that we cannot perfectly avoid them, and for the expiation of these we cry daily to God, and say, "Forgive us our trespasses, as we forgive them that trespass against us:" but there are other sins which ought more carefully to be avoided, because when men are publicly con-

[58] Tractat. 6. [al. tom. 13. n. 30.] in Matth. p. 60. [juxt. Vet. Interpret.]...Nec enim existimo cito aliquem inveniri in ecclesia, qui non jam ter in eadem culpa argutus sit, ut puta in detractione, qua invicem homines detrahunt proximis suis, aut inflatione, aut in epulatione, aut in verbo mendacii vel otioso, aut in tali aliqua culpa, levi, quæ etiam in illis, qui videntur proficere in ecclesia, frequenter inveniuntur. [The Benedictine (t. 3. p. 611 b) differs in terms, but the sense is the same. I leave the citation as given by the Author according to the Old Version. See Ed. Ascensian. 1522. t. 3. fol. 14. vers. e. Ed.]

[59] De Pœnitent. l. 2. c. 10. (t. 2. p. 436. d. n. 95.)....Sicut unum baptisma, ita una pœnitentia, quæ tamen publice agitur. Nam quotidiani nos debet pœnitere peccati: sed hæc delictorum leviorum, in illa graviorum.

[60] De Vit. Contemplat. l. 2. c. 7. (append. p. 31. n. 41.) Exceptis enim peccatis, quæ tam parva sunt ut caveri non possint, pro quibus expiandis quotidie clamamus ad Deum, et dicimus, *Dimitte, &c.* Illa crimina caveantur, quæ publicata suos auctores humano faciunt damnari judicio.

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victed of them, they make them liable to be punished by human judgment:' meaning, that such capital offences were the crimes which subjected men to excommunication, and not those lesser faults, which were only matter of daily repentance.

Cassian observes seven kinds of human failings, which he distinguishes from mortal sins: saying[61], 'It is one thing to commit mortal sin, and another to be overtaken with an evil thought, or to offend by ignorance, or forgetfulness, or an idle word, which easily slips from us, or by a short hesitation in some point of faith, or the subtle ticklings of vain-glory, or by necessity of nature to fall short of perfection. For these seven ways a holy man is liable to fall; and yet he does not cease to be righteous, and though they seem to be but small sins, yet they are enough to prove that he cannot be without sin: for he has upon this account need of a daily repentance, and is obliged in truth without any dissimulation to ask pardon, and pray continually for his sins, saying, "Forgive us our trespasses."'

Gregory Nyssen has a Canonical Epistle concerning discipline, wherein, as Du Pin[62] observes, he makes an exact enumeration of those sins which subjected men to public penance, which are all enormous sins and considerable crimes, such as idolatry, apostasy, divination, murder, adultery, theft, and sacrilege. From all which it is very evident, that by the ancient rules no crimes were to be punished with excommunication, but those that were of the highest nature, which they called *mortal sins;* nor yet all remote violations of the moral law, but only the more immediate, direct, and professed trans-

[61] Collat. 22. c. 13. (p. 586.) Aliud est enim admittere mortale peccatum, et aliud est cogitatione, quæ peccato non caret, præveniri, vel ignorantiæ aut oblivionis errore, aut facilitate otiosi sermonis offendere, aut ad punctum in fidei theoria aliquid hæsitare, aut subtili quadam cenodoxiæ titillatione pulsari, aut necessitate naturæ aliquantisper a summa perfectione recedere. Hæc enim sunt septem lapsuum genera, in quibus sanctus licet nonnunquam cadat, tamen justus esse non desinit; quæ quamvis levia esse videantur ac parva, tamen faciunt eum sine peccato esse non posse. Habet enim, pro quibus quotidianam gerens pœnitudinem, et veniam veraciter debeat postulare, et pro suis indesinenter orare peccatis, dicens, *Dimitte nobis debita nostra.*

[62] [Bibliothèque, cent. 4. (t. 2. p. 276. S. Ambroise.) Ceci peut être confirmé par la Lettre Canonique de Saint Grégoire de Nysse à Letoius, où il fait un denombrement exact des péchés soûmis à la pénitence publique, qui sont tous péchés énormes, et crimes considérables. *Grischov.*]

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gressions of it. Of the species and effects of anger, as Gregory Nyssen [63] observes, they inflicted canonical and public penance upon murder; but not upon the inferior degrees of it, such as stripes, and evil-speaking, or other effects of anger, which are prohibited in Scripture, and bring men in danger of eternal death. So of all the degrees of covetousness, which are very many and heinous, they punished none with excommunication but only notorious oppression, and theft, and robbing of graves, and sacrilege, and the like.

So that when they sometimes call sins of this middle rank, *light* and *venial sins*, in contradistinction to those they termed *mortal*, they do not mean what now the vulgar casuists of the Romish Church mean by *venial sins*, but only that they were not of the number of those capital crimes, for which the Church subjected men to excommunication, and enjoined them public repentance. Which the learned reader may find not only accurately demonstrated by Mr. Daille [64], but ingenuously confessed by Du Pin, and also Petavius [65] before him. Daille transcribes Petavius's words, and I shall here transcribe those of Du Pin [66]: 'I would not have it thought,' says he, 'that

[63] Ep. ad Leont. tot. præsertim cc. 5 et 6. (t. 2. p. 119 c. et p. 121 a.)

[64] De Confess. Auricular. l. 4. c. 20. (p. 428.) Jam alteram partem &c.

[65] Animadvers. in Epiphan. Hær. 59. (t. 2. p. 238.) Principio peccatorum apud antiquos invenio genera fuisse duo. Alia mortalia sive capitalia dicebantur: non ut nos intelligere vulgo solemus, quæcunque Dei nos gratia ac spiritalibus caritatis ornamentis spoliant, sed hujus generis certa duntaxat, quæ cum graviora cæteris essent, tum canonibus ac synodorum decretis nominatim expressa: hæc, inquam, capitalia nominabant, quibus pœnæ a canonibus sigillatim propositæ. .... Alia vero leviora, et quotidiana dicebantur; sive quæ nos venialia nuncupamus, sive alioqui mortalia, sed de quibus nulla nominatim exstaret in Conciliorum decretis mentio; quale verbi gratia esse potest asperius in quenquam maledictum, aut convicium, perjurium, aliaque sexcenta; quæ quanquam letalia sint, nullæ tamen iis a canonibus erant pœnæ constitutæ.

[66] Bibliothèque, cent. 4. p. 219. (t. 2. p. 276. ut supra.) Qu'on ne croie pas, que je fasse ces remarques, pour autoriser le relâchement, ou pour insinuer qu'il y a des péchés mortels, qui peuvent passer pour veniels: à Dieu ne plaise, que j'aie une si détestable intention! Au contraire, mon but est de donner de l'horreur de tous les péchés. Premièrement, des grands crimes; secondement, des péchés qui peuvent être mortels, quoi qu'ils ne paroissent pas si énormes; et troisièmement, des péchés même les plus légers. Mai j'ai crû, que j'étois obligé de remarquer ici, pour expliquer le passage de Saint Ambroise, qu'il n'y avoit que les péchés de la première classe, qui fussent soumis à la pénitence publique, et que c'est de ceux-là seulement que les Pères parlent, et qu'ils compren-

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I make these remarks to authorize licentiousness, or to insinuate that there are some mortal sins that may pass for venial: God forbid, that I should have so detestable a design! On the contrary, my intention is to create an horror of all sins; first, of great crimes; secondly, of sins which may be mortal, though they appear not so enormous; and, thirdly, even of slighter sins also. But I thought myself obliged to observe here, for explaining a passage in St. Ambrose, that none but the sins of the first class did subject men to public penance, and that it is of these only the Fathers speak, and which they comprehend under the name of *enormous sins* and *crimes;* though there be others which may be also mortal, and which a Christian ought carefully to shun; but then they are such for which he was never subjected to the humiliation of a public penance, but only to corrections and reprimands given in secret, as St. Austin informs us.' These observations are very just: for it is certain the Fathers speak against all sins, even those of the lowest rank, as dangerous and mortal, if neglected and wilfully indulged, and not carefully opposed by striving against them, and washing away the guilt by daily repentance: according to what we have heard St. Austin say before[67], that a multitude of lesser sins overwhelm and kill the soul, if they be neglected; as a small leak in a ship, if it be not carefully stopped or drained, will sink it, as well as a bigger wave: which comparison he uses in many[68] places.

nent sous le nom de péchés énormes et de crimes; quoi qu'il y en ait d'autres, qui peuvent aussi être mortels, qu'un Chrétien doit soigneusement éviter, mais pour lesquels il n'étoit pas soumis à l'humiliation de la pénitence publique, mais seulement à des corrections, et à des réprimandes faites en secret, comme Saint Augustin nous l'enseigne.

[67] Tractat. 12. in Ioan. p. 47. See before, n. 43, preceding.

[68] Tractat. 1. in 1 Ioan. p. 237. (t. 3. part. 2. p. 830 c.) .... Non potest homo, quamdiu carnem portat, nisi habere vel levia peccata. Sed ista levia quæ dicimus, noli contemnere. Si contemnis, quando appendis; expavesce, quando numeras. Levia multa faciunt unum grande. Multæ guttæ implent flumen: multa grana faciunt massam. —Serm. 3. in Psalm. 118. p. 545. (t. 4. p. 1283 g.) .... Quando, adversus majora vigilantibus, quædam incautis minuta subrepunt; quæ si adversus nos colligantur, etsi non singula suis molibus conterunt, omnia tamen acervo nos obruunt.—Ep. 108. (See before, s. 14, the last part of n. 45, preceding.—Hom. ult. ex 50. [al. Serm. 351. c. 3.] (t. 5. p. 1355 e.) Quæ [peccata] quamvis singula non letali vulnere ferire sentiantur, sicuti homicidium, et adulterium, vel cætera hujusmodi; tamen omnia simul congregata velut scabies, quo plura sunt, necant, aut nostrum decus ita

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And the reader, that pleases, may find the same caution given against lesser sins, as mortal in their own nature, if neglected and indulged, by Nazianzen[69], Basil[70], Jerom[71], Gregory the Great[72], and many others[73], who say, there is no sin so small but that in rigour of justice it would prove mortal, if God would enter into judgment with us, and be extreme to mark what is done amiss against his law, and especially in contempt of it. But to return to the business in hand.

Excommunication not inflicted for temporal causes.

15. As it was a general rule not to use excommunication for slight offences, so, we may observe, it was no rule to use this weapon, as in after-ages, for mere pecuniary matters and temporal causes. It has frequently been complained of by learned men, both of the Protestant and Roman communion, that this is a great abuse of excommunication[74], that it is often issued

exterminant, ut ab illius sponsi speciosi forma præ filiis hominum castissimis amplexibus separent, nisi medicamento quotidianæ pœnitentiæ desiccentur.

[69] Orat. 31. (t. 1. p. 504 a.) Τὸ *κατὰ μέρος ὑφελκόμενον καὶ κλεπτόμενον, ἀνεπαίσθητον μὲν τὴν πρὸς τὸ πάρον ἔχει βλάβην, εἰς τὸ κεφάλαιον δὲ τῆς κακίας ἀπαντᾷ.*

[70] Regul. Brev. 4. (t. 2. part. 2. p. 283 e.) Ἐρώτησις· Ἐάν τις καὶ *εἰς τὰ μικρὰ ἁμαρτήματα στενοχωρῇ τοὺς ἀδελφούς, λέγων, ὅτι ὀφείλετε μετανοῆσαι, μή ποτε καὶ αὐτὸς ἄσπλαχνός ἐστι, καὶ τὴν ἀγάπην καταλύει;* Ἀπόκρισις· Τοῦ Κυρίου *διαβεβαιωσαμένου μὲν, ὅτι ἰῶτα ἓν, ἢ μία κεραία οὐ μὴ παρέλθῃ ἀπὸ τοῦ νόμου, ἕως ἂν πάντα γένηται· ἀποφηναμένου δὲ, ὅτι πᾶν ῥῆμα ἀργὸν, ὃ ἐὰν λαλήσωσιν οἱ ἄνθρωποι, ἀποδώσουσι περὶ αὐτοῦ λόγον ἐν ἡμέρᾳ κρίσεως· οὐδενὸς δεῖ καταφρονεῖν ὡς μικροῦ.*

[71] Ep. 14. [al. 148.] ad Celant. (t. 1. p. 1091 e. n. 6.) Etsi multum inter peccata distare credimus, quia et legimus: tamen satis prodesse ad cautionem dicimus, etiam minima pro maximis cavere. Tanto enim facilius abstinemus a quocunque delicto, quanto illud magis metuimus. Nec cito ad majora progreditur, qui etiam parva formidat. Et sane nescio, an possimus leve aliquod peccatum dicere, quod in Dei contemptum admittitur, &c.

[72] L. 2. in c. 1. Reg. (t. 3. part. 2. p. 59 e. 7.) .... Et quia sine peccato electi etiam viri esse non possunt, quid restat, nisi ut a peccatis, quibus eos humana fragilitas maculare non desinit, evacuari quotidie conentur? Nam qui quotidie non exhaurit quod delinquit, etsi minima sunt peccata quæ congerit, paullatim anima repletur, atque ei merito auferunt fructum internæ saturitatis.—Hom. 2. in Ezek. (t. 1. p. 1185 b. 5.) .... Omne enim peccatum grave est, quia non permittit animam ad sublimia levari.

[73] [Gennadius, De Eccles. Dogmat. c. 53. (int. Oper. Augustin. t. 8. append. p. 80 e.) Nullus sanctus et justus caret peccato, &c. Ed.]

[74] See Bp. Taylor, Duct. Dubitant. b. 3. ch. 4. p. 617. (rule 9. sect. 10. Works, v. 14. p. 6.) In the Church of Rome it hath been very usual to use excommunications for the discovery of thefts, or the manifestation of secret actions. Divers examples of which are in the Decretals and later Canons of the Church. — See also Du Moulin, Buckler of Faith. (p. 369.) They do worse than that, &c.—Gentiletus Examen. C. Trident. [Sess. 25. n. 18.] p. 300. (p. 296.) .... Secundo ejusdem tertii decreti capite, potestas

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forth for the discovery of theft, or the manifestation of secret actions. Of which there are divers instances in the Decretals; and approbation is given to them by the Council of Trent[75], only reserving such cases as a special privilege to the bishop; who is to give a premonition to he knows not whom, and condemn a pretended criminal without hearing, contrary to all the rules aforesaid in the primitive Church, which allowed no excommunication in a slight cause, nor in any cause without sufficient evidence, and allowing the criminal to speak for himself. So again, as Du Moulin[76] observes out of Cardinal Tolet, in the Romish Church they excommunicate men for future time, and before any crime is committed, and that for securing only the stocks or trees of the lord of a town or village from spoil, although no man has laid hand upon them. At the request of a creditor they excommunicate a debtor, if he pay not within a certain term, and his insufficiency to pay is the only remedy, in the utmost extremity, which the law of the Decretals[77] allows him from so severe a censure.

datur episcopis decernendorum monitoriorum et excommunicationum; ut, a quibus res amissæ aut subtractæ possideantur, constare possit. Quod veteribus canonibus repugnat, qui non ob leves causas, sed ob graves tantum, excommunicationis gladio spirituali utendum esse sanciunt, &c.—Gerson. de Vita Spirituali Animæ, lect. 4. coroll. 5. (t. 3. p. 11 b. 7.) Nullus idem actus, &c. [It. Serm. in Conc. Rhemens. part. 2. consider. 2. provisio 2. (t. 2. p. 552 b. 7.) Fiat insuper abbreviatio tam dispendiosarum litium, moderatio tot excommunicationum, tam a jure, quam ab homine fulminatorum. Et hoc nonnunquam pro defendenda, seu recuperanda re modica, parum utili, vel profana; cum tamen baculus iste primitus fuerit institutus a Christo tanquam durissimum, summumque supplicium, quo nolentes ecclesiam audire plecti deberent... Nunc apud quosdam talis regnat stoliditas, qualis apud illum, qui, ut muscum abigeret a fronte proximi, ictu securis excerebravit eum. Itaque temporalis incommoditas vix reputari debet musca pungens, per respectum ad æternam salutem, quam auferunt aliquando percussiones istæ per excommunicationes gravissimas, quæ ut in aliquem ceciderint, vix abjici possint, trahentibus de una in aliam, lupis curiæ rapacibus. *Grischov.*]—Gerson, in Bp. Taylor, ibid. See n. 78, following.

[75] Sess. 25. Decret. de Reformat. c. 3. (t. 14. p. 907 a.) .... Excommunicationes illæ, quæ, monitionibus præmissis, ad finem revelationis, ut aiunt, aut pro deperditis seu subtractis rebus ferri solent, a nemine prorsus præterquam ab episcopo decernantur.

[76] Buckler of Faith, ibid. ex Tolet. Instruct. Sacerdot. l. 1. c. 8. n. 1. (Tolet. p. 15.) Quando fulminatur in futurum, quia vel præcipitur aliquid faciendum, vel prohibetur ne fiat, tunc, dummodo justum sit, quod præcipitur, resque sit gravis, potest excommunicatio ferri in transgressores: quia, qui non obedit, jam sit contumax et inobediens, et mortaliter peccat, et ideo excommunicationem contrahit.

[77] L. 3. tit. 23. de Solution. c. 3.

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But that which is chiefly complained of by their own learned Gerson in this matter is the abuse of excommunication in the pecuniary concerns of ecclesiastical courts themselves. Bishop Taylor has alleged him in these words[78]: 'Not every contumacy against the orders of courts ecclesiastical is to be punished with this death. If it be in matters of faith or manners, then the case is competent: but when it is a question of money and fees, besides that the case is full of envy and reproach, apt for scandal, and to bring contempt upon the Church, the Church has no direct power in it; and if it have by the aid of the civil power, then for that a civil coercion must be used. It is certainly unlawful to excommunicate any man for not paying the fees of courts: for a contumacy there is an offence against the civil power, and he hath a sword of his own to avenge that. But excommunication is a sword to avenge the contumacy of them who stubbornly offend against the discipline of the Church, in that wherein Christ hath given her authority, and that is in the matters of salvation and damnation immediate, in such things where there is no secular interest, where there can be no dispute, where the offender does not sin by consequence and interpretation, but directly and without excuse. But let it be considered how great a reproach it is to ecclesiastical discipline, if it be made to minister to the covetousness, or to the needs of proctors and advocates: and if the Church shall punish more cruelly than civil courts for equal offences, and because she hath but one

(ap. Corp. Juris. Canon. t. 2. p. 1154. 19. vel ap. CC. t. 11. p. 391 b.) Odoardus clericus proposuit, quod cum P. clericus, D. laicus, et quidam alii ipsum coram officiali archi-diaconi Remensis super quibusdam debitis convenissent; idem in eum recognoscentem hujusmodi debita, sed propter rerum inopiam solvere non valentem, excommunicationis sententiam promulgavit.... Mandamus, quatenus si constiterit, quod prædictus O. in totum vel pro parte non possit solvere debita supra dicta, sententiam ipsam sine difficultate qualibet relaxetis, recepta prius ab ipso [al. eo] idonea cautione, ut si ad pinguiorem fortunam devenerit, debita prædicta persolvat.

[78] De Vita Spirituali, lect. 4. coroll. 7. (t. 3. p. 42. c. 3.) Sola itaque contumacia vera, renuens stare judicio ecclesiæ reddit hominem pro Christiano se gerentem dignum excommunicatione.... Porro differt plurimum qualis est contumacia et quam damnosa ecclesiæ, pro qua materia et circa quam incurritur. Nam pejor est contumacia in materia fidei et religionis, quam pusillæ quæstionis de paucis denariis, ubi nunquam tantum prodest obedientia, quantum obest excommunicatio separativa a spiritualibus suffragiis et societate sanctorum, &c.

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thing to strike withal, if she upon all occasions smites with her sword, it will either kill too many, or hurt and affright none at all.' Whatever force there is in these arguments, or however they may affect the Romish Church, for this apparent corruption of discipline, they do not in the least affect the primitive Church, which was conscious of no such practice, but forbad all excommunication for light offences, among which pecuniary matters must be reckoned. It is true, bishops sometimes sat judges in civil causes, and their determinations in such cases were peremptory and final: but then their coercive power in such judicatures was not excommunication, but civil punishments borrowed from the State, and which the State obliged itself to see duly put in execution; of which I have given an ample account[79] heretofore, and shown it to be a very different thing from excommunication, or any kind of ecclesiastical censure.

No bishop allowed to use it to avenge any private injury done to himself.

16. I observe further, as very remarkable in this matter, that no bishop was allowed to excommunicate any man for any private injury done to himself. For though this might be a great crime, yet it looked like avenging himself, and therefore it was thought unbecoming his character to right himself by excommunication, but either he was to bear the injury patiently, or commit his cause to the judgment of others. Upon this account Cyprian[80] distinguishes between injuries done to himself in his personal and private capacity, and injuries done to the detriment of the brethren or whole body of the Church. 'I can bear and pass over any affront that is put upon my episcopal character, as I have always done, when it only concerned my own person; but now there is no longer any room for forbearance, when many of our brethren are deceived by some of you, who, whilst they would more plausibly recommend themselves to the lapsers by an unreasonable and hasty restoring them to the peace of the Church, do more really prejudice their salvation.' Here he plainly distinguishes between per-

[79] B. 2. ch. 7. v. 1. pp. 105, seqq.

[80] Ep. 10. [al. 16.] ad Cler. p. 36. (p. 194.) Contumelium episcopatus nostri dissimulare et ferre possum, sicut dissimulavi semper et pertuli: sed dissimulandi nunc locus non est, quando decipiatur fraternitas nostra a quibusdam vestrum, qui dum sine ratione restituendæ salutis plausibiles esse cupiunt, magis lapsis obsunt.

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sonal injuries, which he could bear without any great resentment or thoughts of punishing: but those that were of a more public nature, and not only affronting to his authority, but prejudicial to the people, those he threatens to animadvert upon according to their deserving. We find a like distinction made by Gregory the Great[81], who, writing to a certain bishop who had excommunicated a man for a private injury done to himself, thus reproves him for it: 'You show that you think nothing of heavenly things, whilst you inflict the curse of *anathema* or *excommunication* for the avenging a private injury done to yourself, which the holy canons forbid. Therefore be circumspect and cautious for the future, and presume not to do any such thing to any man in defence of your own private injuries Otherwise you may expect to feel the censures of the Church for your presumption.' That there were ancient canons to this purpose in the time of Gregory cannot be doubted from his testimony, though I know of none at present that speak directly to this particular case; only in general the Council of Sardica[82] forbids bishops to excommunicate any one in passion or hasty anger, and allows the injured person to appeal to the provincial synod or the neighbouring bishops for redress in all such cases.

No man to be excommunicated for sins

17. It is also worth noting, that the Church inflicted the severe censures of excommunication upon men for overt acts, and not for sins in bare design and intention: because though

[81] L. 2. [part 1.] Ep. 34. [al. 49.] (CC. t. 5. p. 1093 b.).... Nihil te ostendis de cœlestibus cogitare, sed terrenam te conversationem habere significas; dum pro vindicta propriæ injuriæ, quod sacris regulis prohibetur, maledictionem anathematis invexisti. Unde de cætero omnino esto circumspectus atque solicitus, et talia cuiquam pro defensione propriæ injuriæ tuæ inferre denuo non præsumas. Nam si tale aliquid feceris, in te scias postea vindicandum.—Vid. Gratian. caus. 23. quæst. 4. c. 27. (t. 1. p. 1314. 31.) The same words.

[82] C. 14. (t. 2. p. 640 a) Ὅσιος ἐπίσκοπος εἶπε· Τὸ δὲ πάντοτέ με κινοῦν ἀποσιωπῆσαι οὐκ ὀφείλω. Εἴ τις ἐπίσκοπος ὀξύχολος εὑρίσκοιτο· ὅπερ οὐκ ὀφείλει ἐν τοιούτῳ ἀνδρὶ πολιτεύεσθαι· καὶ ταχέως ἀντικρὺ πρεσβυτέρου ἢ διακόνου κινηθεὶς ἐκβαλεῖν ἐκκλησίας αὐτὸν ἐθελήσοι· προνοητέον ἐστὶ, μὴ ἀθρόον [al. ἀθῷον] τὸν τοιοῦτον κατακρίνεσθαι, καὶ τῆς κοινωνίας ἀποστερεῖσθαι. Πάντες εἰρήκασιν· ὁ ἐκβαλλόμενος ἐχέτω ἐξουσίαν ἐπὶ τὸν ἐπίσκοπον τῆς μητροπόλεως τῆς αὐτῆς ἐπαρχίας καταφυγεῖν· εἰ δὲ ὁ τῆς μητροπόλεως ἄπεστιν, ἐπὶ τὴν πλησιόχωρον κατατρέχειν, καὶ ἀξιοῦν, ἵνα μετὰ ἀκριβείας αὐτοῦ ἐξετάζηται τὸ πρᾶγμα. [Juxt. Ed. Crabb. Latin. c. 17. (t. 1. p. 333.) Osius episcopus dixit, &c. This edition reads *providendum est ne innocens damnetur*, which shows that ἀθῷον in the Greek is correct and ἀθρόον corrupt. Ed.]

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only in design and intention.

these might be great sins before God, as our Saviour says, "He that looks on a woman to lust after her hath committed adultery with her already in his heart;" [Matth. 5, 28.] yet the Church was no proper judge of the heart, and therefore she did not ordinarily punish such sins till they made some visible appearance in the outward action. This seems to be the meaning of that canon of the Council of Neocæsarea[83], which says, 'If a man purpose in his heart to commit fornication with a woman, but his lust proceed not into action, it is apparent he is delivered by grace.' That is, he sins before God for his wicked design, but the Church inflicts not excommunication upon him because his intention proceeds not to any outward act of uncleanness. So Zonaras[84] interprets it among the Ancients, and Osiander[85] among the modern interpreters. Though some think that such intentions, if discovered by any overt acts, might bring a man under ecclesiastical censure.

Nor for forced or involuntary actions.

18. The case is more clear as to all forced and involuntary actions, where the will was no way consenting to them. For as they were free from sin, so they were from punishment. There were some indeed who out of an over-abundant zeal and ignorant pretence of purity were for excluding men from communion for such things, which were more to be reckoned their misfortunes than their crimes: but the Council of Ancyra prudently corrected this erroneous zeal by a canon[86] to this purpose: 'That communion should not be denied to those who

[83] C. 4. (t. 1. p. 1481 b.) Ἐὰν προθῆταί τις ἐπιθυμῆσαι γυναικὸς, συγκαθευδῆσαι μετ' αὐτῆς, μὴ ἔλθῃ δὲ εἰς ἔργον αὐτοῦ ἡ ἐνθύμησις, φαίνεται ὅτι ὑπὸ τῆς χάριτος ἐρρύσθη.

[84] In Basil. can. 32. (ap. Bevereg. Pandect. t. 2. part 1. p. 92 b.) Ἡ δὲ μεχρὶ τοῦ βουλεύσασθαι καὶ συγκαταθέσθαι, οὐ πρὸς θάνατον, δηλονότι τὸν ψυχικόν· οὐ γὰρ πόρνος ἂν κριθείη ὁ πορνεῦσαι συγκατατιθέμενος, τῆς δὲ πράξεως ἀποσχόμενος· φησὶ γὰρ, ὁ τέταρτος κανὼν τῆς ἐν Νεωκαισαρείᾳ συνόδου, Ἐὰν προθῆταί τις ἐπιθυμῆσαι γυναικὸς, κ. τ. λ.

[85] In c. 4. C. Neocæsar. Ed. Witeberg. 1614. (ap. Epitom. Hist. Eccles. cent. 4. p. 43.) Hoc videtur velle hic canon, eum non cadere sub pœnam aliquam disciplinæ ecclesiasticæ, &c.

[86] C. 3. (t. 1. p. 1457 a.) Τοὺς φεύγοντας καὶ συλληφθέντας, ἢ ὑπὸ οἰκείων παραδοθέντας, ἢ ἄλλως τὰ ὑπάρχοντα ἀφαιρεθέντας, ἢ ὑπομένοντας βασάνους, ἢ εἰς δεσμωτήριον ἐμβληθέντας, βοῶντας τε ὅτι εἰσὶ Χριστιανοὶ, καὶ περισχισθέντες, ἤτοι εἰς τὰς χεῖρας πρὸς βίαν ἐμβαλλόντων τῶν βιαζομένων, ἢ βρῶμά τι πρὸς ἀνάγκην δεξαμένους, ὁμολογοῦντας δὲ διόλου ὅτι εἰσὶ Χριστιανοὶ, καὶ τὸ πένθος τοῦ συμβάντος ἀεὶ ἐπιδεικνυμένους τῇ πάσῃ καταστολῇ, καὶ τῷ σχήματι, καὶ τῇ τοῦ βίου ταπεινότητι· τούτους, ὡς ἔξω ἁμαρτήματος ὄντας, τῆς κοινωνίας μὴ κωλύεσθαι· εἰ δὲ καὶ ἐκωλύθησαν ὑπό τινος, περισσοτέρας ἀκριβείας ἕνεκεν, εἰ καί τινων ἀγνοίᾳ, εὐθὺς προσδεχθῆναι.

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fled, but were apprehended or betrayed by their servants, and suffered loss of their estates or torture or imprisonment, declaring all the while that they were Christians: though they were held, and by violence the incense was put into their hands, and they were forced to receive meat offered to idols into their mouths, declaring themselves all the time to be Christians, and showing by their behaviour and habit and humble course of life that they were sorry for that which happened; these being without sin are not to be debarred from communion. Or if by the superabundant caution or ignorance of any they have been debarred, let them forthwith be received into communion again.' And the like is determined in the case of women that suffer ravishment against their wills, by Gregory Thaumaturgus[87], and St. Basil[88]. And so by Dionysius of Alexandria[89], and Athanasius[90], and others, for any involuntary defilement whatsoever.

These were the general measures observed by the Ancients to distinguish great and small offences, or innocence from sin, in order to show what might or might not bring men under the censure of excommunication. But because it will contribute much toward the more exact understanding of the ancient discipline to know more particularly the several sorts of those greater crimes for which men were subjected to the highest censures, I will now proceed to make a more distinct inquiry into the nature and kinds and degrees of those high misdemeanours in the following chapters.

[87] Ep. Canonic. c. 1. (p. 38 b. et CC. t. 1. p. 837 c.) *Εἰ μέν τοί τις ἐν ἄκρᾳ σωφροσύνῃ ζήσασα, καὶ καθαρὸν, καὶ ἔξω πάσης ὑπονοίας ἐπιδεδειγμένη βίον τὸν πρότερον, νῦν περιπέπτωκεν ἐκ βίας καὶ ἀνάγκης ὕβρει· ἔχομεν παράδειγμα τὸ ἐν τῷ Δευτερονομίῳ, τὸ ἐπὶ τῇ νεανίδι, ἣν ἐν τῷ πεδίῳ εὗρεν ἄνθρωπος, καὶ βιασάμενος αὐτὴν, ἐκοιμήθη μετ' αὐτῆς· Τῇ νεανίδι, φησὶν, οὐ ποιήσετε οὐδὲν, κ. τ. λ.*

[88] Ep. Canonic. c. 49. [Oper. Basil. Ep. 199. Canonic. Secund.] (CC. t. 2. p. 1745 c.) *Αἱ πρὸς ἀνάγκην γινόμεναι φθοραὶ, ἀνεύθυνοι ἔστωσαν· ὥστε καὶ ἡ δούλη, εἰ ἐβιάσθη παρὰ τοῦ οἰκείου* [al. *ἰδίου*] *δεσπότου, ἀνεύθυνός ἐστιν.*

[89] C. 4. (ap. Bevereg. Pandect. t. 2. p. 7 a.) *Οἱ δ' ἐν ἀπροαιρέτῳ νυκτερινῇ ῥύσει γενόμενοι, καὶ οὗτοι τῷ ἰδίῳ συνειδότι κατακολουθείτωσαν, καὶ ἑαυτοὺς, εἴτε διακρίνονται περὶ τούτου, εἴτε μὴ, σκοπείτωσαν.*

[90] Ep. ad Amum. ap. Bevereg. Pandect. t. 2. part 1. p. 36 d. (Oper. Athanas. t. 1. part 2. p. 765 c.) *Τότε γὰρ μόνον μεμολύσμεθα, ὅτε τὴν δυσωδεστάτην ἁμαρτίαν ἐργαζόμεθα· ὅτε δὲ φυσική τις ἔκκρισις ἀβουλήτως γίνεται, τότε τῇ τῆς φύσεως ἀνάγκῃ μετὰ τῶν ἄλλων, ὡς προείπομεν, καὶ τοῦτο ὑπομένομεν.*

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CHAP. IV.

A particular account of those called great crimes, the principal of which was idolatry. Of its several species, and degrees of punishment allotted to them according to the proportion and quality of the offences.

The mistake of some about the number of great crimes, in confining them to idolatry, adultery, and murder.

1. LEARNED men are not well agreed about the number of those which the Ancients called *great crimes*, with reference to the ecclesiastical punishment, nor about the reason and foundation of that title. There were some in St. Austin's time who were for confining great crimes, for which excommunication was to be inflicted, to three only, adultery, idolatry, and murder: these they allowed to be mortal sins, and made no doubt but that they were to be punished with excommunication[1], till they were cured by the humiliation of public penance; but for all others they said compensation might easily be made by giving of alms. This St. Austin labours to confute, not only in the place alleged, but in several others[2], by which it is evident that these were not the only great crimes that were punished with excommunication. And therefore those modern authors make a wrong representation of the ancient discipline, who confine it to those three great crimes, or to such as may be reduced to them: since it is apparent from what is now said that it extended much further; and, as I shall presently show, included all the great crimes against the whole Decalogue, or transgressions of the moral law in every instance.

The account given of great crimes in the civil law, extended much further.

2. And it is very observable, that even in the civil law, the account that is given of great crimes extended much further. For when the emperors, according to custom, at the Easter festival, granted a general release and indulgence to such as were imprisoned for their misdemeanours, they still excepted several other heinous crimes, specified in their laws, some five,

[1] Vid. Augustin. de Fid. et Oper. c. 19. (t. 6. p. 184 f, g.) Qui autem opinantur cætera eleemosynis facile compensari, tria tamen mortifera esse non dubitent et excommunicatione punienda, donec pœnitentia humiliore sanentur, impudicitiam, idololatriam, homicidium.

[2] Hom. ult. ex 50. See n. 6, following.—De Civitat. Dei, l. 21. c. 27. (t. 7. p. 650 a.) Restat eis respondere, qui dicunt æterno igne illos tantummodo arsuros, qui pro peccatis suis facere dignas eleemosynas negligunt, &c.

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some six, some eight, some ten, which cannot be reduced to the three crimes of idolatry, adultery, and murder. The laws of Valentinian and Gratian[3] except seven capital crimes from any benefit of such indulgence, viz. sacrilege, treason, robbing of graves, necromancy, adultery, ravishment, and murder. The laws of Theodosius the Great[4] except eight capital crimes; treason, parricide, murder, adultery, ravishment, incest, necromancy, and counterfeiting of the imperial coin. And those of Valentinian Junior[5] except ten; sacrilege, adultery, incest, ravishment, robbing of graves, charms, necromancy, counterfeiting the coin, murder, and treason. Now when the civil law excepted so many great crimes, under the name of *atrocia de-*

[3] Cod. Theod. l. 9. tit. 38. de Indulgentiis Criminum, leg. 3. (t. 3. p. 271.) Ob diem Paschæ, quem intimo corde celebramus, omnibus, quos reatus astringit et carcer inclusit, claustro dissolvimus. Attamen sacrilegus, in majestate reus, in mortuos veneficus, sive maleficus, adulter, raptor, homicida communione istius muneris separentur.—Conf. leg. 4. (ibid. p. 273.) Paschæ celebritas postulat, ut quoscunque nunc ægra exspectatio quæstionis pœnæque formido solicitat, absolvamus: decretis tamen Veterum mos gerendus est, ne temere homicidii crimen, adulterii fœditatem, majestatis injuriam, maleficiorum scelus, insidias venenorum, raptusque violentiam, sinamus evadere.

[4] Ibid. leg. 6. (p. 275.) Paschalis lætitiæ dies ne illa quidem tenere sinit ingenia, quæ flagitia fecerunt: pateat insuetis horridus carcer aliquando luminibus. Alienum autem censemus ab indulgentia, 1. qui nefariam criminum conscientiam in majestatem superbe animaverit: 2. qui parricidali furore raptus sanguine proprio manum tinxit: 3. qui cujusque præterea hominis cæde maculatus est: 4. qui genialis tori ac lectuli fuit invasor alieni: 5. qui verecundiæ virginalis raptor exstitit: 6. qui venerandum cognati sanguinis vinculum profano cæcus violavit incestu: vel 7. qui, noxiis quæsita graminibus et diris immurmurata secretis, mentis et corporis venena composuit: aut 8. qui sacri oris imitator et divinorum vultuum appetitor venerabiles formas sacrilegio eruditus impressit.

[5] Ibid. leg. 7. (p. 276.) Religio anniversariæ obsecrationis hortatur, ut omnes omnino periculo carceris metuque pœnarum eximi juberemus, qui leviore crimine rei sunt postulati. Unde apparet, eos excipi, quos atrox cupiditas in scelera compulit sæviora: in quibus est 1. primum crimen et maxime, majestatis: 2. deinde homicidii: 3. veneficiique, ac 4. maleficiorum: 5. stupri, atque 6. adulterii, parique immanitate sacrilegii, 7. sepulcri violatio: 8. raptus, 9. monetæque adulterata figuratio.—Leg. 8. (ibid. p. 277.) Ubi primum dies Paschalis exstiterit, nullum teneat carcer inclusum, omnium vincula solvantur. Sed ab his secernimus eos, quibus contaminari potius gaudia lætitiamque communem, si dimittantur, advertimus. Quis enim 1. sacrilego diebus sanctis indulgeat? quis 2. adultero, vel 3. incesti reo tempore castitatis ignoscat? quis non 4. raptorem in summa quiete et gaudio communi persequatur instantius? 5. Nullam accipiat requiem vinculorum, qui quiescere sepultos quadam sceleris immanitate non sivit: patiatur tormenta 6. veneficus, 7. maleficus, 8. adulteratorque monetæ: 9. homicida, quod fecit semper exspectet: 10. reus etiam majestatis, de domino, adversum quem talia molitus est, veniam sperare non debet.

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licta, from the benefit of these indulgences, it is not probable, were there no other argument to persuade it, that the ecclesiastical law would let any of those heinous offences go unpunished, or wholly escape the severity of Church-censure.

And in the ecclesiastical law, the account of great crimes extended to the whole Decalogue.

3. But we have clearer and more certain evidence in the case. For first St. Austin[6] says, the great crimes, which were punished with public penance, were such as were against the whole Decalogue or Ten Commandments, of which the Apostle says, "They which do such things shall not inherit the kingdom of God." [Gal. 5, 21.] Only, as Mr. Daille[7] rightly observes, we must interpret this of capital crimes directly and expressly forbidden in the law, not of all remote branches or lower degrees of sin, that may any way whatsoever be reduced to the principal crime, or indirectly come under the prohibition. For otherwise it would not be true that all sins forbidden in the Decalogue brought men under public penance, since there are some transgressions only conceived in the heart, and never completed in outward action[8], which, though they might be great breaches of the law, yet they could not come under public censure, but were to be cured by private repentance.

A particular enumeration of the great crimes against the First and

4. Supposing, therefore, that there were many great crimes against every precept of the moral law, which might bring men under ecclesiastical censure and public penance, we will now proceed in the order of the Decalogue, to consider the nature,

[6] Hom. ult. ex 50. c. 4. t. 10. p. 205. [al. Serm. 351.] (t. 5. p. 1356 e.) Tertia actio est pœnitentiæ, quæ pro illis peccatis subeunda est, quæ Legis Decalogus continet: et de quibus Apostolus ait, *Quoniam qui talia agunt, regnum Dei non possidebunt.*

[7] De Confess. Auricular. l. 4. c. 20. (p. 431. post med.) ..... Id de solis capitalibus delictis diserte in Decalogo vetitis esse accipiendum. Nam id, si latius de quibusvis in Decalogo quomodocunque vetitis sumatur, evidenter falsum erit, cum constet, non modo, quæ hodie ab adversariis venialia dicuntur, sed et alia multo plura, quæcunque scilicet a veteribus inter capitalia minime numerabantur, publicæ pœnitentiæ nequaquam olim fuisse obnoxia.

[8] Vid. Augustin. Hom. 44. de Verb. Dom. c. 5. [al. Serm. 98.] (t. 5. p. 519 c.) Sunt ergo, qui peccatum intus in corde habent, in facto nondum habent. Nescio quis commotus est aliqua concupiscentia. Dicit enim ipse Dominus, *Qui videret mulierem ad concupiscendam eam, jam mœchatus est eam in corde suo.* Nondum accessit corpore, consensit in corde; mortuum intus habet; nondum extulit. Et ut fit, ut novimus, ut quotidie homines in se experiuntur, aliquando audito verbo Dei, tanquam Domino dicente, *Surge*, condemnatur consensus ad iniquitatem; respiratur in salutem atque justitiam. Surgit mortuus in domo, reviviscit cor in cogitationis secreto. Facta est ista resurrectio animæ mortuæ intus intra latebras conscientiæ, tanquam intra domesticos parietes.—Conf. Dall. ubi supra, l. c.

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and kinds, and punishment of them. The great crimes against the First and Second Commandments, which were commonly joined together, were comprised under the general names of *apostasy* and *irreligion;* which comprehended the several species of idolatry; blaspheming and denying Christ in time of persecution; using the wicked arts of divination, magic, and enchantments; and dishonouring God by sacrilege and simony, by heresy and schism, and other such profanations and abuses, corruptions and contempts of his true religion and service. All these were justly reputed great crimes, and ordinarily punished with the severest ecclesiastical censures.

Second Commandments. Of idolatry, and the several species and branches of it.

5. Of idolaters there were several sorts. Some went openly to the temples, and there offered incense to the idols, and were partakers of the sacrifices. These were distinguished by the name of *sacrificati* and *thurificati*, as we find them often styled in Cyprian[9], who speaks of them as defiling both their hands and mouths by the sacrilegious touch: meaning their hands by offering incense, and their mouths by eating of the sacrifices. And of these also there were several degrees. Some, as soon as ever a persecution was set on foot, before they were called upon, or had any violence offered to them, went voluntarily to the temples, and offered sacrifice of their own accord; whilst others held out a long time against torture, and only sacrificed when the utmost necessity compelled them. Cyprian[10] makes a great difference between these two sorts of lapsers, as he does also between those, who went not only themselves, but compelled their wives and children, and servants and friends,

Of the *sacrificati* and *thurificati*, or such as fell into idolatry by offering incense to idols, and partaking of the sacrifices.

[9] Ep. 15. [al. 20.] ad Cler. Rom. p. 43. (p. 199.) ..... Qui sacrilegis contactibus manus suas atque ora maculassent.—Ep. 52. [al. 55.] ad Antonian. p. 108. (p. 246.) ... Placuit sacrificatis in exitu subveniri, quia exomologesis apud inferos non est.

[10] Ibid. p. 106. (p. 245.) Nec tu existimes...libellaticos cum sacrificatis æquari oportere; quando inter ipsos etiam qui sacrificaverint, et conditio frequenter et causa diversa est. Neque enim æquandi sunt, ille qui ad sacrificium nefandum statim voluntate prosilivit: et qui reluctatus et congressus diu ad hoc funestum opus necessitate pervenit. Ille, qui et se et omnes suos prodidit; et qui ipse, pro cunctis ad discrimen accedens, uxorem et liberos et domum totam periculi sui perfunctione protexit: ille, qui inquilinos vel amicos suos ad facinus compulit; et qui inquilinis et colonis pepercit; fratres etiam plurimos, qui extorres et profugi recedebant, in sua tecta et hospitia recepit, ostendens et offerens Domino multas viventes et incolumes animas, quæ pro una saucia deprecentur.—Vid. Petr. Alexandr. cc. 1, 2, 3, ap. Beveregg Pandect. t. 2. part. 1. pp. 8, 9. (CC. t. 1. p. 955.)

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to go and sacrifice with them; and those, who, to deliver their families and friends from danger, went and exposed themselves alone; by this means protecting not only their own families, but also many Christian brethren and strangers, that were banished, and had fled, to take shelter in their houses, who were as so many living intercessors to God for them. They who did thus, he thinks were much more excusable than those, who both went voluntarily, and by their counsel and authority compelled many others to go along with them. Whose crimes he therefore elegantly describes and aggravates after this manner in his book *De Lapsis*[11]: 'They did not stay till they were apprehended to go to the capital, but denied the faith before any question was asked them about it. They were conquered before the fight, and fell without any engagement. They ran to the forum of their own accord, and made haste to give themselves the mortal wound, as their own voluntary act, without compulsion: as if they had desired this long before, and now only embraced the opportunity that was given them, which they always wished for. How was it, that when they went so readily to the capital to do this wicked act, their legs did not sink under them, and their eyes grow dim, and their bowels tremble, and their arms fall down, and their senses become stupid, and their tongue falter, or cleave to the roof of their mouth, and their words fail them? Could the servant of God stand there, and speak and renounce Christ, who had before renounced the Devil and the world? Was not that altar, whither he came to die, more like his funeral pile? Ought he not to have abhorred and fled from the altar of the Devil, as

[11] P. 124. (p. 89.) Non exspectaverunt, ut ascenderent apprehensi, aut interrogati negarent. Ante aciem multi victi, sine congressione prostrati; nec hoc sibi reliquerunt, ut sacrificare idolis viderentur inviti. Ultro ad forum currere, ad mortem sponte properare; quasi hoc olim cuperent, quasi amplecterentur occasionem datam, quam semper optassent. Quid illi, qui a magistratibus vespera urgente dilati sunt, quod ne eorum differretur interitus, etiam rogaverunt? Quam vim potest talis obtendere, qua crimen suum purget; cum vim magis ipse fecerit, ut periret? Nonne quando ad capitolium sponte ventum est, quando ultro ad obsequium diri facinoris accessum est, labavit gressus, caligavit aspectus, tremuerunt viscera, brachia conciderunt? Nonne sensus obstupuit, lingua hæsit, sermo defecit? Stare illic potuit Dei servus, et loqui, et renuntiare Christo; qui jam Diabolo renuntiarat et sæculo? Nonne ara illa, quo moriturus accessit, rogus illi fuit? Nonne Diaboli altare, quod fœtore tetro fumare ac redolere conspex-

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his coffin or his grave, when he saw it smoke and fume with a stinking smell? To what purpose, thou miserable wretch, didst thou bring thy oblation, and put thy sacrifice upon the altar? Thou thyself wert the victim, thou thyself the sacrifice and burnt-offering. There thou didst sacrifice thy salvation, and burn thy faith and thy hope in those abominable fires. But many were not content with their own destruction; the people provoked one another into ruin by mutual calls and exhortations, and the cup of death was handed round by every man to his neighbour. And, that nothing might be wanting to consummate the crime, parents carried their children in their arms, or led them after them, that their little ones might lose what they had gained in their first birth. Will not they say, when the day of judgment comes, We did nothing ourselves; we did not leave the bread and cup of the Lord, to run of our own accord to those profane contagions: it was the treachery of others that destroyed us, our parents were guilty of parricide towards us. They deprived us of the privilege of having the Church for our mother, and God for our Father; that whilst we were little, and unable to care for ourselves, and ignorant of so great a wickedness, we should be taken and betrayed by other men's frauds, being by them made partners in their offences.' Thus far Cyprian, aggravating the crimes of those who showed such a forwardness to commit idolatry, and apostatize with greediness and delight.

Now as these were some of the highest degrees of idolatry, so the Church put a remarkable difference between them and others in her punishments, setting a more peculiar mark or note of distinction upon them in her censures. There are

erat, velut funus et bustum vitæ suæ horrere ac fugere debebat? Quid hostiam tecum miser, quid victimam supplicaturus imponis? Ipse ad aras hostia, victima ipse venisti. Immolasti illic salutem tuam; spem tuam, fidem tuam funestis illis ignibus concremasti. Ac multis proprius interitus satis non fuit, hortamentis mutuis in exitium suum populus impulsus est: mors invicem letali poculo propinata est. Ac, nequid deesset ad criminis cumulum, infantes quoque parentum manibus vel impositi vel attracti: amiserunt parvuli, quod in primo statim nativitatis exordio fuerant consecuti. Nonne illi, cum judicii dies venerit, dicent, *Nos nihil fecimus, nec derelicto cibo et poculo Domini ad profana contagia sponte properavimus: perdidit nos aliena perfidia, parentes sensimus parricidas. Illi nobis ecclesiam matrem, illi patrem Deum negaverunt; ut dum parvi et improvidi, et tanti facinoris ignari, per alios ad consortium criminum jungimur, aliena fraude caperemur.*

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several canons in the Council of Ancyra, which plainly show this distinction. The fourth canon [12] orders, 'that they, who were compelled to go to an idol temple, if they went with a pleasing air and in a festival habit, and took share of the feast with unconcernedness, should do six years' penance, one as hearers only, three as prostrators, and two as co-standers to hear the prayers, before they were admitted to full communion again. But if they went in a mourning habit to the temple, and wept all the time they ate of the sacrifice, then four years penance should be sufficient to restore them to perfection.' The eighth canon [13] orders, 'those who repeated their crime by sacrificing twice or thrice to do a longer penance:' for seven years is appointed to be their term of discipline. And by the ninth canon [14], 'that if any not only sacrificed themselves, but also compelled their brethren, or were the occasion of compelling them, then they were to do ten years' penance, as guilty of a more heinous wickedness,' according as we have heard Cyprian represent it. But if any did neither sacrifice, nor eat things offered to idols, but only their own meat on an Heathen festival in an idol-temple, they were only confined to two years penance by the seventh canon [15] of the same Council.

These canons chiefly respect such as transgressed after some violence or force put upon them, by torture or banishment, or imprisonment, or confiscation, or the like necessity in any other kind of trial: but if any voluntarily apostatized and prevaricated without compulsion, a severer punishment was laid upon

[12] [CC. 4, 5. (t. 1. p. 1457 c.) *Περὶ τῶν πρὸς βίαν θυσάντων, ἐπὶ δὲ τούτοις καὶ τῶν δειπνησάντων εἰς τὰ εἴδωλα, ὅσοι μὲν ἀπαγόμενοι, καὶ σχήματι φαιδροτέρῳ ἀνῆλθον, καὶ ἐσθῆτι ἐχρήσαντο πολυτελεστέρᾳ, καὶ μετέσχον τοῦ παρασκευασθέντος δείπνου ἀδιαφόρως· ἔδοξεν ἐνιαυτὸν ἀκροᾶσθαι, ὑποπεσεῖν δὲ τρία ἔτη, εὐχῆς δὲ μόνης κοινωνῆσαι ἔτη δύο, καὶ τότε ἐλθεῖν ἐπὶ τὸ τέλειον. Ὅσοι δὲ ἀνῆλθον μετὰ ἐσθῆτος πενθικῆς, καὶ ἀναπεσόντες ἔφαγον μεταξὺ δι' ὅλης τῆς ἀνακλίσεως δακρύοντες, εἰ ἐπλήρωσαν τὸν τῆς ὑποπτώσεως τριετῆ χρόνον, χωρὶς προσφορᾶς δεχθῆτωσαν.*

[13] C. 8. (ibid. c.) *Οἱ δὲ δεύτερον καὶ τρίτον θύσαντες μετὰ βίας, τετραετίαν ὑποπεσέτωσαν, δύο δὲ ἔτη χωρὶς προσφορᾶς κοινωνησάτωσαν, καὶ τῷ ἑβδόμῳ τελείως δεχθῆτωσαν.*

[14] C. 9. (ibid. p. 1460 c.) *Ὅσοι δὲ μὴ μόνον ἀπέστησαν, ἀλλὰ καὶ ἐπανέστησαν, καὶ ἠνάγκασαν ἀδελφοὺς, καὶ αἴτιοι ἐγένοντο τοῦ ἀναγκασθῆναι· οὗτοι ἔτη μὲν τρία τὸν τῆς ἀκροάσεως δεξάσθωσαν τόπον, ἐν δὲ ἄλλῃ ἑξαετίᾳ τὸν τῆς ὑποπτώσεως· ἄλλον δὲ ἐνιαυτὸν κοινωνησάτωσαν χωρὶς προσφορᾶς· ἵνα τὴν δεκαετίαν πληρώσαντες, τοῦ τελείου μετάσχωσιν.*

[15] C. 7. (ibid. b.) *Περὶ τῶν συνεστιαθέντων ἐν ἑορτῇ ἐθνικῇ ἐν τόπῳ ἀφωρισμένῳ τοῖς ἐθνικοῖς, ἴδια βρώματα ἐπικομισαμένων καὶ φαγόντων· ἔδοξε διετίαν ὑποπεσόντας δεχθῆναι. Grischov.*]

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them: for by the rules of the Council of Nice[16] they were to undergo twelve years' penance before they were perfectly restored again to full communion. And the same term is appointed by the second Council of Arles[17], which refers to the Nicene canon. The Council of Valence[18], in France goes a little further, and obliges them to do penance all their lives, and allows them absolution only at the hour of death, which they were to expect more fully from the hands of God only, who alone had the absolute power of it, and was infinite in mercy, that no one should despair. Agreeable to which is that rule of Siricius[19], 'that apostates should do penance all their lives, and be reconciled only at the hour of death.' The Council of Eliberis goes beyond this, and denies such apostates communion at the very last extremity[20], because this was the great and principal crime above all others. And sometimes adultery and murder were a sort of accessories or concomitants of this idolatry, as many times it was in the heathenish games and shows, which were made up of idolatry, adultery, and murder: upon which account this same Council has another canon[21], which orders, 'that if any Christian took upon him the office of a *flamen*, or *Roman priest*, and therein offered sacrifice, doubling and trebling his crime by murder and adultery, he should not be received to communion at the hour of

[16] C. 11. (t. 2. p. 33 d.) *Περὶ τῶν παραβάντων χωρὶς ἀνάγκης, ἢ χωρὶς ἀφαιρέσεως ὑπαρχόντων, ἢ χωρὶς κινδύνου, ἤ τινος τοιούτου, ὃ γέγονεν ἐπὶ τῆς τυραννίδος Λικινίου· ἔδοξε τῇ συνόδῳ, κἂν ἀνάξιοι ἦσαν φιλανθρωπίας, ὅμως χρηστεύσασθαι εἰς αὐτούς. Ὅσοι οὖν γνησίως μεταμέλονται, τρία ἔτη ἐν ἀκροωμένοις ποιήσουσιν οἱ πιστοὶ, καὶ ἑπτὰ ἔτη ὑποπεσοῦνται· δύο δὲ ἔτη χωρὶς προσφορᾶς κοινωνήσουσι τῷ λαῷ τῶν προσευχῶν.*

[17] C. 10. (t. 4. p. 1012 c.) De his, qui in persecutione prævaricati sunt, si voluntarie fidem negaverint, hoc de eis Nicæna Synodus statuit, ut quinque annos inter catechumenos exigant, et duos inter communicantes, &c.

[18] C. 3. (t. 2. p. 905 d.) . . . Acturi vero pœnitentiam usque in diem mortis, non sine spe tamen remissionis, quam ab eo plene sperare debebunt, qui ejus largitatem et solus obtinet, et tam diu [al. dives] ei misericordia est, ut nemo desperet.

[19] Ep. 1. ad Himerium, c. 3. (ibid. p. 1018 e.) His [apostatis], quamdiu vivunt, agenda pœnitentia est, et in ultimo fine suo reconciliationis gratia tribuenda.

[20] C. 1. (t. 1. p. 969 e.) Placuit inter eos, qui post fidem baptismi salutaris, adulta ætate, ad templum idolatraturus accesserit, et fecerit quod est crimen principale, quia est summum scelus, nec in fine eum communionem accipere.

[21] C. 2. (ibid. e.) Flamines, qui post fidem lavacri et regenerationis sacrificaverunt; eo quod geminaverint scelera, accedente homicidio; vel triplicaverint facinus, cohærente mœchia; placuit eos nec in fine accipere communionem.

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death.' Nor need we wonder at this severity, since Cyprian[22] assures us, that before his time many of his predecessors in the province of Afric refused to grant communion to adulterers to the very last; and yet they did not divide communion from their fellow bishops, who practised otherwise. And he says further, concerning voluntary deserters and apostates[23], who continued in rebellion all their lives, and only desired penance when some infirmity seized them, 'that they were cut off from all hopes of communion and peace; because it was not repentance for their fault, but the fear of approaching death that made them desire a reconciliation; and they were not worthy to receive that comfort at their death, who would not consider all their life before that they were liable to die.' The first Council of Arles made a like decree[24], 'that such as voluntarily apostatized, and never after sued to the Church, nor desired to do penance all their lives, till some infirmity seized them, should not be received to communion, unless they recovered and brought forth fruits worthy of repentance.'

These were the rules by which the ancient discipline was regulated and conducted in reference to such idolaters and apostates as actually defiled themselves by offering sacrifice to idols, whether it were by force or by choice; whether they lapsed singly or drew others into the same crime with themselves; and whether they returned immediately and became penitents or continued apostates and rebels: according to the difference of which circumstances different degrees of punishment were laid upon them.

Of the *libellatici;* wherein their idolatry consisted.

6. Another sort of those who lapsed into idolatry, and were charged with denying their religion, were called *libellatici,*

[22] Ep. 3. [al. 4.] ad Antonian. p. 110. (p. 247.) Et quidem apud antecessores nostros quidam de episcopis istic in provincia nostra dandam pacem mœchis non putaverunt, et in totum pœnitentiæ locum contra adulteria clauserunt, non tamen a co-episcoporum suorum collegio recesserunt, &c.

[23] Ibid. p. 111. (p. 248.) Idcirco .... pœnitentiam non agentes, nec dolorem delictorum suorum toto corde et manifesta lamentationis suæ professione testantes, prohibendos omnino censuimus a spe communicationis et pacis; .... quia rogare eos non delicti pœnitentia, sed mortis urgentis admonitio compellit; nec dignus est in morte accipere solatium, qui se non cogitavit esse moriturum.

[24] C. 23. [al. 22.] (t. 1. p. 1429 c.) De his, qui apostant et nunquam se ad ecclesiam repræsentant, nec quidem pœnitentiam agere quærunt, et postea in infirmitate arrepti petunt communionem, placuit eis non dandam communionem, nisi revaluerint, et egerint dignos fructus pœniten-

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from certain *libels* or *writings* which they either gave to the Heathen magistrates in private or received from them, to be excused doing sacrifice in public.

Baronius[25] thinks there was one sort of *libellatici*, and that they all expressly denied Christ, either by themselves or others; but, being ashamed to sacrifice or deny him in public, they made a private renunciation, and for a bribe got a libel of security from the magistrate to indemnify and secure them from being sought after, or called upon to sacrifice in public. But other learned men[26] observe some distinction among them: and indeed there seem at least to have been three sorts of them.

Some expressly gave it under their hands to the magistrate that they were no Christians, denying their religion in word or writing, as others did in action; professing they were ready to sacrifice if the magistrate should call them to it. Cyprian often speaks of these, and puts them in the same class with those that actually sacrificed. 'Let not those flatter themselves,' says he[27], 'as if they were excused from doing penance, who, although they did not defile their hands with the abominable sacrifices, yet defiled their consciences by a *libel*. A Christian that professes he denies his religion is witness against himself, that he abjures what he was before; he owns in words to have done whatever the other did in real action.'

Another sort did neither abjure, nor sign any libel or ab-

[25] An. 253. n. 20. [nn. 18, 19.] (t. 2. p. 414 b, d.) Libellaticos eos esse, significare tradunt, qui, cum sacrificium offerre publice cogerentur, se data pecunia redemissent.... Quibus omnibus exprimere videtur, libellatici causam fuisse hujuscemodi, ut, etsi minus quis sacrificium diis offerret, tamen aliqua per se vel per alium edita professione fidem negaret: ne vero, sicut cæteri, traheretur ignominiose ad aram, id pecunia .... redimebat.

[26] Albaspin. Observat. l. 1. c. 21. ss. 4, 5, 6, 7. (ad calc. Optat. pp. 42, 43.) Duo tamen inter legendum libellaticorum genera mihi videor deprehendisse, &c.—Cave, Primitive Christianity, part 3. ch. 5. p. 384. (p. 352.) Besides these libels granted by the martyrs, &c.—Suicer. Thes. Eccles. (t. 2. p. 240.) ..... Paucis explicare libet, quinam apud Veteres dicantur *libellatici*. Duo eorum genera fuisse videntur, &c.

[27] De Lapsis, p. 133. (p. 95.) Nec sibi, quo minus agant pœnitentiam, blandiantur, qui, etsi nefandis sacrificiis manus non contaminaverunt, libellis tamen conscientiam polluerunt. Et illa professio denegantis contestatio est Christiani, quod fuerat, abnuentis; fecisse se dixit, quicquid alius faciendo commisit.—So in the Epistle of the Roman Clergy to Cyprian: [Ep. 31. al. 30.] p. 57. (p. 210.) Hoc nos non falso dicere superiores nostræ literæ probaverunt, in quibus vobis sententiam nostram dilucida expositione protulimus, adversus eos, qui seipsos infideles illicita nefariorum libellorum professione prodiderant, quando non minus quam si ad nefarias aras accessissent, hoc ipso quod contestati fuerant, tenerentur.

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juration themselves, but sent either an Heathen friend or a servant to sacrifice or abjure in their names, and thereby procure them a libel of security from the magistrate, as if they had done what the others did for them. And indeed the Church so interpreted it, and reckoned these no less criminals than the former. The Roman Clergy in their Letter to Cyprian[28] condemn them both alike, saying, 'that this latter sort, though they were not present at the fact of delivering the libel to the magistrate, yet they were in effect present by commanding it to be written and presented. For he that commands a sin to be done, cannot discharge himself of the guilt of it; nor can he be innocent of the crime, by whose consent it is publicly read in court as done, though he was not actually the doer of it. Seeing the whole mystery of faith is summed up in confessing the name of Christ, he that seeks by any fallacious tricks to excuse himself from such profession does plainly deny it: and he who, when edicts and laws are published against the Gospel, would be thought to comply with and observe them, does in that very thing obey them, in that he would have the world believe that he does obey them.' The Canons of Peter, bishop of Alexandria, also take notice of this sort of *libellers*, and appoint them their punishment[29], making this difference between a master who compelled his slave to go and sacrifice for him, and the slave who went at his command: 'the slave was to do one year's penance, but the master is enjoined three years, because he dissembled, and because he compelled his fellow-servant to sacrifice: for we are all servants of the Lord, with whom is no respect of persons.'

Besides these, there was another sort of *libellers*, who,

[28] Ubi supr. (p. ead.) Sed etiam adversus illos, qui accepta fecissent, licet præsentes cum fierent non affuissent, cum præsentiam suam utique ut sic scriberentur mandando fecissent. Non est enim immunis a scelere, qui ut fieret imperavit; nec est alienus a crimine, cujus consensu, licet non a se admissum crimen, tamen publice legitur, &c.

[29] C. 6. ap. Bevereg. t. 2. part 1. p. 12 b. (CC. t. 1. p. 957 e.) *Τοῖς δὲ δούλους Χριστιανοὺς ἀνθ' ἑαυτῶν ὑποβεβληκόσιν, οἱ μὲν δοῦλοι ὡς ἂν ὑποχείριοι ὄντες καὶ τρόπον τινὰ καὶ αὐτοὶ φυλακισθέντες ὑπὸ τῶν δεσποτῶν, καταπειληθέντες ὑπ' αὐτῶν, καὶ διὰ τὸν φόβον αὐτῶν εἰς τοῦτο ἐληλυθότες καὶ ὁλισθήσαντες, ἐνιαυτῷ τὰ τῆς μετανοίας ἔργα δείξουσι, μανθάνοντες τοῦ λοιποῦ, ποιεῖν τὸ θέλημα τοῦ Χριστοῦ καὶ φοβεῖσθαι αὐτόν.*—C. 7. ap. Bevereg. ibid. d. (CC. p. 960 a.) *Οἱ δὲ ἐλεύθεροι, ἐν τρισὶν ἔτεσιν ἐξετασθήσονται ἐν μετανοίᾳ, καὶ ὡς ὑποκρινόμενοι, καὶ ὡς καταναγκάσαντες τοὺς ὁμοδούλους θῦσαι, ὅτε δὴ παρακούσαντες τοῦ Ἀποστόλου τὰ αὐτὰ θέλοντος ποιεῖν τοὺς δεσπότας τοῖς δούλοις, ἀνιέντας τὴν ἀπειλήν· Εἰδότας, φησὶν, ὅτι καὶ ἡμῶν καὶ αὐτῶν ὁ Κύριός ἐστιν ἐν οὐρανοῖς, καὶ προσωποληψία παρ' αὐτῷ οὐκ ἔστιν.*

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finding that the fury of the judge was to be taken off by a bribe, went to him and told him plainly they were Christians and could not sacrifice, and therefore desired him to give them a libel of security, for which they would give him a suitable reward. Cyprian, speaking of this sort of *libellers*, brings them in thus apologizing for themselves[30]: 'I had before both read and learnt from the preaching of the bishop, that the servant of God ought not to sacrifice to idols, nor to worship images; and therefore, that I might not do that which is unlawful, when the opportunity of getting a libel offered itself, which yet I would not have accepted had not the occasion presented itself, I went to the magistrate, or employed another to go in my name, and tell him that I was a Christian, and that it was unlawful for me to sacrifice, or come near the altars of the devils; that therefore I would give him a reward to excuse me from doing that which I could not lawfully do.' Cyprian does not wholly excuse these, but adds, 'that though their hands were not polluted with sacrifice, nor their mouths with eating things offered to idols, yet their conscience was defiled: but forasmuch as they seemed rather to sin out of ignorance than maliciousness, he thinks their case a little more favourable than those that sacrificed; and therefore since some difference was made even among those that sacrificed, he thinks a greater allowance should be made to these, though he does not particularly tell us what term of penance was imposed upon them.'

Of those who feigned themselves mad, to avoid sacrificing.

7. Not much unlike this sort of *libellers* were they who counterfeited madness in times of persecution, to get themselves excused by this means from being questioned, or called upon to offer sacrifice. Some of them would go to the very altars, and make as if they intended to sacrifice, or subscribe the abjuration, but then they evaded the thing by pretending

[30] Ep. 52. [al. 55.] ad Antonian. p. 107. (p. 245.) Ego prius legeram et episcopo tractante cognoveram, non sacrificandum idolis, nec simulacra servum Dei adorare debere; et idcirco ne hoc facerem quod non licebat, cum occasio libelli fuisse oblata, quem nec ipsum acciperem, nisi ostensa fuisset occasio, ad magistratum vel veni, vel alio eunte mandavi: Christianum me esse, sacrificare mihi non licere, ad aras Diaboli me venire non posse, dare me hoc præmium, ne quod non licet faciam.—Vid. Celerin. Ep. 21. ibid. p. 46. (p. 201.) ... Quia [Etecusa] pro se dona numeravit, ne sacrificaret: sed tantum ascendisse videtur ad Tria Fata, et inde descendisse.

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to fall into a sort of epileptic fit, which inclined the magistrates to excuse them and let them escape, as David by such an artifice escaped from Achish, [1 Sam. 21, 13—15.] when he intended to kill him. Now this was looked upon as mere dissimulation and collusion, and only a more artful way of denying their religion: and therefore by the Penitential Rules of Peter, bishop of Alexandria[31], such, though they neither sacrificed themselves, nor suborned others to sacrifice for them, were subjected to penance for six months, because they in some measure denied their religion, and made a show ofcountenancing idolatry both by their cowardice and dissimulation.

Of contributors to idolatry. Of the *flamines, munerarii,* and *coronati.* What they were and how guilty of idolatry.

8. And indeed it was not only the bare commission of idolatry that subjected men to ecclesiastical censure; but all promoters, encouragers, and compliers with idolatrous rites were reputed guilty of idolatry in some degree, and accordingly proceeded against as betrayers of their religion. Thus in the Council of Eliberis there is a canon[32] against such Christians as took upon them the office of a *flamen* or *Heathen priest;* part of whose office was to exhibit the ordinary games or shows to the people: and if they did this, though they abstained from sacrificing, they were to do penance all their lives as encouragers of idolatrous rites, and only be admitted to communion at the hour of death, after sufficient evidences of a true repentance. Some learned persons mistake the sense of this canon, understanding the words, *munus dare,* as if they meant *giving money* to the judge to excuse them from sacrificing: which would be the same crime as the libellers were guilty of; whereas this canon speaks not of such lapsers, but of those who took upon them the office of

[31] C. 5. ap. Bevereg. t. 2. part 1. p. 11 a. (CC. t. 1. p. 957 c.) Τοῖς δὲ καθυποκριναμένοις κατὰ τὸν ἐπιληπτευσάμενον Δαβὶδ, ἵνα μὴ ἀποθάνῃ, οὐκ ὄντα ἐπίληπτον· καὶ μὴ γυμνῶς ἀπογραψαμένοις τὰ πρὸς ἄρνησιν, ἀλλὰ διαπαίξασι κατὰ πολλὴν στενοχωρίαν, ὡς ἂν παιδία βουλευτικὰ ἔμφρονα ἐν παιδίοις ἄφροσι, τὰς τῶν ἐχθρῶν ἐπιβουλὰς, ἤτοι ὡς διελθόντες βωμοὺς, ἤτοι ὡς χειρογραφήσαντες, ἤτοι ὡς ἀνθ' ἑαυτῶν βαλόντες ἐθνικοὺς, εἰ καί τισιν αὐτῶν συνεχώρησάν τινες τῶν ὁμολογησάντων, ὡς ἤκουσα, ἐπεὶ μάλιστα κατὰ πολλὴν εὐλάβειαν ἐξέφυγον αὐτόχειρες γενέσθαι τοῦ πυρὸς καὶ ἀναθυμιάσεως τῶν ἀκαθάρτων δαιμόνων· ἐπεὶ τοίνυν ἔλαθεν αὐτοὺς ἄγνοιᾳ τοῦ πράξαντος, ὅμως ἐξάμηνος αὐτοῖς ἐπιτιθήσεται τῆς ἐν μετανοίᾳ ἐπιστροφῆς.

[32] C. 3. (ibid. p. 971 a.) Item flamines, qui non immolaverint, sed munus tantum dederint, eo quod se a funestis abstinuerunt sacrificiis, placuit in fine eis præstari communionem, acta tamen legitima pœnitentia.

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a *flamen*, whose business among other things was to *give* or *exhibit* at his own, or else at a public expense, the *munera*, that is, the ordinary games or shows and pastimes to the people. For these were called *munera*[33], as appears from the use of the term in the Civil Law: and they that gave them were thence termed *munerarii, the masters of the games*, or *the entertainers*, who kept beasts and men to fight in the amphitheatre for the entertainment of the people; as may be seen in Tertullian[34], and Seneca[35], and Suetonius[36], and others who speak according to the propriety of the Latin tongue. Now because these games were held chiefly on the Heathen festivals and in honour of their gods, and were full of idolatrous rites as well as cruelty and impurity, a Christian could not exhibit them to the people, without incurring the crime of idolatry, at least indirectly, by promoting and encouraging the practice of it. And for that reason this canon is so severe against those who furnished out these shows at their own expense.

A lower degree of this crime was, when such a *flamen* or *priest* neither offered sacrifices, nor exhibited the games at his own expense, but only wore the crown, which was usual in such solemnities: which being a badge of idolatry, for that reason, by another canon of that Council[37], two years' penance, as a moderate punishment in comparison of the former, is imposed upon them that were so far concerned in it. But

[33] Cod. Theod. l. 9. tit. 18. leg. 1. (t. 3. p. 154.) ... Bestiis primo quoque munere objiciatur.—Vid. Gothofred. in loc. (ibid. p. 155. col. dextr.) Sane qui ad bestias dati, depugnaturi cum his inducebantur stato spectaculi die; quod *munus* dictum, et vero hac quoque lege dicitur, &c. — Martial. de Spectacul. s. in Amphitheatr. Cæsar. Epigram. 6. (ap. Corp. Poet. Lat. t. 2. p. 1169.)

Prisca fides taceat: nam post tua munera, Cæsar,
Hæc jam fœminea vidimus acta manu.

[34] Apolog. c. 44. (p. 34 d.) ... De vestris semper *munerarii* noxiorum greges pascunt.

[35] [Epitom. Controvers. l. 4. (Ed. Paris. cum Not. Varior. ap. Hadrian. Perier. 1607. fol. part. 2. p. 239.) *Seneca Novato, Senecæ, Melæ, filiis salutem.* Quod munerarii solent facere ad expectationem populi detinendam, nova paria per omnes dies dispensant, ut sit quod populum et delectet et revocet: &c. Ed.]

[36] Vit. Domitian. cap. 10. (p. 333.) ... Threcem mirmilloni parem, munerario imparem.

[37] Vid. C. Eliber. c. 4. (t. 1. p. 976 d.) Sacerdotes, qui tantum coronam portant, nec sacrificant, nec de suis sumptibus aliquid ad idola præstant, placuit post biennium accipere communionem.

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it may be noted, that Tertullian's invective against the soldier's crown or garland, in his Book *De Corona Militis,* has no relation to this matter: for the wearing of such a crown seems to have had no concern in religion, but to be a mere civil act done in honour of the emperors on such days as they gave their largesses or donations to the soldiers. The laurel was only an ensign of victory, and though it was dedicated to Apollo, yet that did not make the use of it unlawful; otherwise the use of the four elements, and many other trees, and plants, and animals had all been unlawful, because, as St. Austin [38] shows, they were dedicated to the gods also. Therefore learned men [39] censure Tertullian here, as overstraining his argument upon this point upon his new principles of Montanism, by which he als denied it to be lawful for a Christian to fly in time of persecution, or to bear arms in defence of the empire [40], contrary to his former judgment in his Apology, where he tells the emperor, that his army was full of the disciples of Jesus, and mentions the famous undertaking of the Thundering Legion with a great eulogium and commendation. So that this new severity of his in condemning the Christian soldiers for wearing a laurel-crown, must be reckoned among those peculiarities which he imbibed after he was fled over from the Church to the school of Montanus; since we no where find soldiers condemned for this in the Catholic Church, much less brought under any discipline or penance for the use of it.

How the office of the

9. But there is another canon in the Council of Eliberis [41],

[38] Ep .154. [al. 47.] ad Publicol. (t. 2. p. 111 g.) Sed si illud, quod in agris nascitur, consecratur idolo, vel sacrificatur, tunc inter idolothyta deputandum est ..... Hoc et de puteo responderim vel fonte, qui in templo est, &c.

[39] Baron. an. 201. n. 16. tot. (t. 2. p. 281 c.) Et quod ab ecclesia Catholica semel desciscens, &c.—Du Pin, Biblioth. t. 1. p. 95. (t. 1. p. 102.) Tertullien semble l'étendre un peu trop en quelques rencontres, et prendre trop à la rigueur des choses, qui se peuvent excuser, comme par exemple, de porter les armes pour la défense de l'empire, d'orner ses maisons de flambeaux et de lauriers en l'honneur des princes, de se servir de manières de parler usitées, quoi qu'elles aient quelque rapport à l'idolatrie.—Seller, Life of Tertullian, (Remarques, &c. p. 221.) I would therefore presume, &c.

[40] Vid. Tertull. de Cor. Mil. c. 11. (p. 117 b.) Etenim ut ipsam causam coronæ militaris aggrediar, puto prius conquirendum, an in totum Christianis militia conveniat, &c.

[41] C. 56. (t. 1. p. 976 d.) Magistratum vero uno anno, quo agit duumviratum, prohibendum placuit, ut se ab ecclesia cohibeat.

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which orders, 'that all Christians, who took upon them the city magistracy or office, called *the duumvirate*, should be denied communion for the whole year in which they held the office, as guilty of some offence against religion.' No crime is mentioned, but idolatry is understood: for the grounds and reasons of this canon will be easily explained and apprehended from the account that is given of this office in the Civil Law; where we learn, that the *duumviri* were the chief city-magistrates, otherwise called *primates curiæ*, chosen every year, for it was but an annual office; and it belonged to them, as it did to the *flamines* and the *pontifices*, or *sacerdotes provinciarum*, and the *prætores* and *the governors of provinces*, or *ordinary judges*, to exhibit the *spectacula*, or *the games* and *shows* to the people, as Gothofred[42] shows from various laws of the Theodosian Code. And Tertullian[43] not only observes the same, that the city-magistrates were the editors of these games, but that the shows themselves were founded in idolatry and attended with many idolatrous ceremonies; which he makes use of as one argument why a Christian should not frequent them. And for this reason the Council of Eliberis orders all Christians, who took upon them the office of the *duumviri*, to be kept back from communion during the year they went through that office; because they could not exhibit these shows to the people without encouraging and partaking in that idolatry which was so closely annexed to them: for, [to quote the

duumvirate made men guilty of idolatry, and how it was punished.

[42] Paratitlon ad Cod. Theod. l. 15. tit. 5. de Spectacul. (t. 5. p. 348.) Edebantur autem spectacula vel a magistratibus, 1. Duumviris, &c.—Conf. Cod. Theod. l. 12. tit. 1. de Decurion. leg. 169. (t. 4. p. 499.) De duumvirorum censu Antiochiæ erecto per præbitionem DC solidorum, ad ludos eo facilius edendos. —L. 15. tit. 5. de Spectacul. leg. 1. (t. 5. p. 348.) Magistratus et sacerdotiorum editiones, &c.

[43] De Spectacul. c. 11. (p. 78 a.) Proinde tituli; Olympia Jovi, quæ sunt Romæ Capitolina. Item Herculi Nemæa, Neptuno Isthmia, cæteri mortuarii [al. mortuorum] varii agones. Quid ergo mirum, si apparatus agonum idololatria conspurcat de coronis profanis, de sacerdotalibus præsidibus, &c.—Ibid. c. 12. (c.) Hæc muneri [al. muneris] origo, ... licet transierit hoc genus editionis ab honoribus mortuorum ad honores viventium, quæsturas dico et magistratus et flaminia et sacerdotia. Cum tamen nominis dignitas idololatriæ crimine teneatur, necesse est quicquid dignitatis nomine administratur, communicet etiam maculas ejus, a qua habet causas, &c. —Vid. Apolog. c. 38. (p. 30 d.) Æque spectaculis vestris in tantum renuntiamus, in quantum originibus eorum, quas scimus de superstitione conceptas, &c.—De Idolol. c. 13. (p. 92 d.) Sic tamen nobis de mansuetudine et clementia Dei blandiamur, ut non usque ad idololatriæ affinitates necessitatibus largiamur, &c.

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words of Lactantius[44],] *Ludorum celebrationes Deorum festa sunt.*

How actors and stage-players, and charioteers, and other gamesters, and frequenters of the theatre and circus, were charged with idolatry, and punished for it.

10. And for the same reason, all actors and stage-players, and they who drove the chariots in the public games, and gladiators, and all who had any concern in the exercise or management of these unlawful sports, and all frequenters of them, were obliged either to quit these practices, or be liable to excommunication so long as they continued to follow them; not only because a great deal of impurity and cruelty was committed in them, but also because they contributed to the maintenance of idolatry, which was an appendage of them. All these were comprised in the pomp and service of the Devil, which every Christian had renounced at his baptism; and therefore when any one returned to them, he was charged as a renouncer of his baptismal covenant, and thereupon discarded, as an apostate and relapser, from Christian communion. Thus Cyprian being consulted by Eucratius, whether a stage-player might communicate, who continued to follow that dishonourable trade, he answers[45], 'that it was neither agreeable to the majesty of God, nor the discipline of the Gospel, that the modesty and honour of the Church should be defiled with so base and infamous a contagion.' The Council of Eliberis[46] allows stage-players to be baptized only upon condition that they renounced their arts, and entirely bid adieu to them: and if after baptism they returned to them again, they were to be cast out of the Church. The first Council of Arles has a like decree[47], 'that all public actors belonging to the theatre shall be denied communion so long as they continue to act.' And the third Council of Carthage[48] supposes the sentence of excommunication to pass upon all such, when it says, 'that actors and stage-players, and all apostates of that kind, shall not be denied

[44] Institut. l. 6. c. 20. (t. 1. p. 494.) Consult the whole chapter.

[45] Ep. 61. [al. 2.] p. 3. (p. 171.) Puto nec majestati divinæ nec evangelicæ disciplinæ congruere, ut pudor et honor ecclesiæ tam turpi et infami contagione fœdetur.

[46] C. 62. (t. 1. p. 977 b.) Si pantomimi [al. auriga et pantomimus] credere voluerint, placuit ut prius artibus [al. actibus] suis renuntient, et tunc demum suscipiantur, ita ut ulterius non revertantur. Quod si facere contra interdictum tentaverint, projiciantur ab ecclesia.

[47] C. 5. (ibid. p. 1427 e.) De theatricis, et ipsos placuit, quamdiu agunt, a communione separari.

[48] C. 35. (t. 2. p. 1172 b.) Ut scenicis atque histrionibus, cæterisque hujusmodi personis, vel apostaticis, conversis vel reversis ad Dominum, gratia vel reconciliatio non negetur.

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pardon and reconciliation, if they return unto the Lord.' This implies that they were gone astray, and cast out of the Church for their crimes, since they needed pardon and reconciliation to take off their censure and restore them. The first Council of Arles[49] determines the same in the case of those who drove the chariots in the public games, that so long as they continued in that employment they should be denied communion. Tertullian[50] and others[51] say expressly, that these arts were part of those pomps and worship of Satan which men renounced in baptism. And it appears from a rule in the Constitutions[52], 'that no charioteer, or gladiator, or racer, or curator of the public games, or practiser in the Olympic games, or minstrel, or harper, or dancer, was to be admitted to baptism, unless they immediately quitted these unlawful callings.' And it was no less a crime to frequent the theatre, and be spectators of these idolatrous practices, as is noted in the same rule of the Constitutions[53]. Therefore as an obstinate adherence to these things debarred catechumens from baptism, so it likewise excluded baptized persons or believers from the privilege of communion.

11. Another way of contributing to the practice of idolatry, was the art or trade of making idols for the worshippers of

Idol-makers; their crime

[49] C. 4. (t. 1. p. 1427 d.) De agitatoribus, qui fideles sunt, placuit eos, quamdiu agitant, a communione separari.

[50] De Spectacul. c. 4. (p. 74 c.) Cum aquam ingressi Christianam fidem in legis suæ verba profitemur, renuntiasse nos Diabolo et pompæ et angelis ejus ore nostro contestamur. Quid erit summum atque præcipuum, in quo Diabolus et pompæ et angeli ejus censeantur, quam idololatria? ex qua omnis immundus et nequam spiritus, ut ita dixerim, quia nec diutius de hoc. Igitur, si ex idololatria universam spectaculorum paraturam constare constiterit, indubitate præjudicatum erit etiam ad spectacula pertinere renuntiationis nostræ testimonium in lavacro, quæ Diabolo et pompæ et angelis ejus sint mancipata, scilicet per idololatriam.—De Cor. Mil. c. 13. (p. 109 b.) Universas, ut arbitror, causas enumeravimus; nec ulla nobiscum est: omnes alienæ, profanæ, illicitæ, semel jam in sacramenti testatione ejeratæ. Hæc enim erant pompæ Diaboli et angelorum ejus, officia sæculi, honores, solemnitates, &c.

[51] Salvian. de Gubernat. l. 6. n. 6. p. 197. (p. 121.) Ergo spectacula et pompæ etiam juxta nostram professionem opera sunt Diaboli. Quomodo, O Christiane, spectacula post baptismum sequeris? &c.—Cyril. Hierosol. Catech. [19.] Mystag. 1. n. 4. See before, b. 11. ch. 7. s. 3. v. 4. p. 122. n. 55.

[52] L. 8. c. 32. (Cotel. v. 1. p. 412.) *Τῶν ἐπὶ σκηνῆς ἐάν τις προσείῃ ἀνὴρ, ἢ γυνὴ, ἢ ἡνίοχος, ἢ μονόμαχος, ἢ σταδιοδρόμος, ἢ λουδεμπιστὴς, ἢ Ὀλυμπικὸς, ἢ χοραύλης, ἢ κιθαριστὴς, ἢ λυριστὴς, ἢ ὁ τὴν ὄρχησιν ἐπιδεικνύμενος, ἢ κάπηλος· ἢ παυσάσθωσαν, ἢ ἀποβαλλέσθωσαν.*

[53] Ibid. (p. 414.) *Θεατρομανία εἴ τις πρόσκειται, . . . ἢ παυσάσθω, ἢ ἀποβαλλέσθω.*

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and punishment.

them. Many Christians, who abhorred the worship of idols themselves, made no scruple to make idols for others, and live by this calling; which was reputed a very scandalous profession, tending indirectly and consequentially to the upholding and promoting of idolatry. For which reason, no man professing this art could be admitted to baptism, unless he promised to renounce it, as we learn from the Author of the Constitutions[54]: and what denied a man one sacrament, would also deny him the other. Tertullian[55] calls such, 'proctors and purveyors for idolatry,' inveighing against this and some other trades of the like nature. 'When you help,' says he, 'to furnish out the pomp, the priesthood, the sacrifices of idols, what can you be called but procurers for idols? All heinous sins, for the greatness of the danger attending them, ought to make us extremely cautious to keep at a distance not only from them, but from all things that minister to the practice of them. For though a crime be committed by others, it is all one if I am instrumental to the commission of it. By the same reason that I am forbidden to do it, I ought to take care that it be not done by my assistance. I must not be a necessary aid to another in doing that which I may not lawfully do myself.' Upon these grounds he concludes the trade of making idols to be unlawful, as well as the worship of them. And so did Clemens Alexandrinus[56], and Justin Martyr[57] before him. Tertullian[58] objects it as a great crime to Hermogenes, that he followed the trade of painting images.

[54] Ibid. (p. 412.) *Εἰδωλοποιὸς προσιὼν, ἢ παυσάσθω, ἢ ἀποβαλλέσθω.*

[55] De Idolol. c. 11. (p. 91 c.) Cum pompæ, cum sacerdotia, cum sacrificia idolorum . . . instruuntur, quid aliud quam procurator idolorum demonstraris? Nemo contendat, posse hoc modo omnibus negotiationibus controversiam fieri. Graviora delicta quæque, pro magnitudine periculi, diligentiam extendunt observationis, ut non ab iis [al. his] tantum abscedamus, sed ab iis per quæ fiunt. Licet enim ab aliis fiat, non interest, si per me. In nullo necessarius esse debeo alii, cum facit quod mihi non licet. Ex hoc, quod vetor facere, intelligere debeo curandum mihi esse, ne fiat per me.

[56] Protreptic. ad Gent. (p. 54. 8.) *Καὶ γὰρ δὴ καὶ ἀπηγορεύεται ἡμῖν ἀναφανδὸν, ἀπατηλὸν ὁρίζεσθαι τέχνην· Οὐ γὰρ ποιήσεις, φησὶν ὁ Προφήτης, παντὸς ὁμοίωμα, ὅσα ἐν τῷ οὐρανῷ, καὶ ὅσα ἐν τῇ γῇ κάτω.*

[57] Dialog. cum Tryph. (p. 321 e.) *Εἴπατε γάρ μοι, οὐχὶ Θεὸς ἦν ὁ ἐντειλάμενος διὰ Μωσέως, μήτε εἰκόνα, μήτε ὁμοίωμα, μήτε τῶν ἐν οὐρανῷ ἄνω, μήτε τῶν ἐπὶ γῆς ὅλως ποιῆσαι, κ. τ. λ.*

[58] Cont. Hermogen. c. 1. (p. 233 b.) . . . . Pingit illicite [al. licite], nubit assidue: legem Dei in libidinem defendit, in artem contemnit bis falsarius et cauterio et stilo.

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But that which is most material to our purpose here is his observation, which he makes in his Book of Idolatry[59], upon the punishment due to such as made a livelihood of this unlawful calling, that any one who followed it ought not to have access to the house of God. For it was contrary[60] to the faith which they had professed in baptism. 'How have we renounced the Devil and his angels, if we still continue to make them? What divorce have we made from them with whom we not only continue to live but live upon them? What disagreement is there between us and them to whom we are obliged for our maintenance and livelihood? Can you deny that with your tongue which you confess with your hands? Can you destroy that in words which you raise up in your actions,—preach one God and make so many,—preach the true God and make false ones? But, say you, I only make them, I do not worship them. As if the same reason which forbids you to worship them did not also forbid you to make them. Yea, you worship them in doing that which causes them to be worshipped. And you worship them not with the spirit of any vile *nidor* (or *smell*) of a sacrifice, but with your own spirit: not with the life of a sheep bestowed on them, but with your own soul. To them you sacrifice your own ingenuity, to them you offer your labour, to them you burn your prudence and understanding. You are more than a priest to them, since by your means it is that they have a priest. Your diligence is their deity. Do you then deny that you worship that to

[59] De Idolol. c. 5. (p. 87 c.)... Hujusmodi artificum, quos nunquam in domum Dei admitti oportet, si quis eam disciplinam norit.

[60] Ibid. c. 6. (p. 88 b.) Quomodo enim renuntiavimus Diabolo et angelis ejus, si eos facimus? Quod repudium diximus iis, non dico cum quibus, sed de quibus vivimus? Quam discordiam suscepimus in eos, quibus exhibitionis nostræ gratia obligati sumus? Potes lingua negasse, quod manu confiteris? Verbo destruere, quod facto struis? Unum Deum prædicare, qui tantos efficis? Verum Deum prædicare, qui falsos facis? *Facio*, ait quidam, *sed non colo*. Quasi ob aliquam causam colere non audeat, nisi ob quam et facere non debeat; scilicet ob Dei offensam utrobique. Immo tu colis, qui facis ut coli possint. Colis autem non spiritu vilissimi nidoris alicujus, sed tuo proprio: nec anima pecudis impensa, sed anima tua. Illis ingenium tuum immolas, illis sudorem tuum libas, illis prudentiam tuam accendis. Plus es illis quam sacerdos, cum per te habeant sacerdotem. Diligentia tua numen [al. nomen] illorum est. Negas te quod facis colere? Sed illi non negant, quibus hanc saginatiorem, et auratiorem, et majorem hostiam cædis, salutem tuam.

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which you give its very being and existence? But they themselves do not deny it to whom you offer a fatter, and more costly, and greater sacrifice, even your own salvation.' Thus far Tertullian, who notwithstanding seems to complain that there was a great remissness in the exercise of discipline upon such offenders; for he immediately adds[61], 'One might declaim all the day long with a zeal of faith upon this point, and bewail such Christians as come straight from their idols into the church, from the shop of the adversary into the house of God, and there lift up to God the Father those very hands which are the mothers (or makers) of idols; adoring God in the church with those hands, which without doors are themselves adored in the idols which they have made against God; and taking the body of the Lord into those hands wherewith they have prepared and given bodies to the devils. Nor is this all. It were but a small thing to defile that body which they receive from the hands of others, but those very hands deliver it to others which have first defiled it. For the makers of idols are sometimes chosen into the holy orders of the Church. O monstrous wickedness! The Jews once laid hands upon Christ, but these every day treat his body despitefully. O hands that ought to be cut off!' If Tertullian here does not make too severe an invective, and calumniate the Church, it must be owned there was some neglect in the exercise of discipline, to suffer such offenders not only to communicate, but take orders in the Church, who by the rules of discipline ought not to communicate in the Christian body in any quality whatsoever.

The idolatry of building or adorning Heathen altars and temples.

12. Tertullian in the same book brings the charge of idolatry against all other artificers who contributed toward the worship of idols, either by erecting altars, or building temples, or making shrines, or beautifying and adorning the idols, or any

[61] Ibid. c. 7. (p. 88 d.) Tota die ad hanc partem zelus fidei perorabit, ingemens Christianum ab idolis in ecclesiam venire; de adversarii officina in domum Dei; attollere ad Deum Patrem manus matres idolorum: his manibus adorare, quæ foris adversus Deum adorantur: eas manus admovere corpori Domini, quæ dæmoniis corpora conferunt. Nec hoc sufficit. Parum sit, si ab aliis manibus accipiant, quod contaminant, sed etiam ipsi tradunt aliis, quod contaminaverunt. Alleguntur in ordinem ecclesiasticum artifices idolorum. Proh scelus! Semel Judæi Christo manus intulerunt; isti quotidie corpus ejus lacessunt. O manus præcidendæ!

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thing belonging to them. For[62] it was the same thing, whether a man made an idol or only adorned it. He that built a temple or erected an altar to an idol, or overlaid it with gold, did rather more toward its worship than he that made it: for the one only gave it an effigies, the other gave it authority; procuring veneration to be paid to it as a god. Upon this score all who thus contributed toward the worship of idols, though they did not actually sacrifice to them, were ranked in the same class with idolaters, and accordingly subjected to the censures of the Church. Which appears from that famous remonstrance which St. Ambrose made to the Emperor Valentinian[63], when he was solicited by Symmachus the Heathen to restore the altar of Victory in the Capitol. He told him plainly, that if he did this no bishop would receive him to communion, but every one courageously repel him, and be ready to give him a good reason for their opposition. 'They will tell you,' says he, 'that the Church desires not your gifts, because you have adorned the temples of the Heathen with your gifts: the altar of Christ refuses your oblations, because you have erected an altar to the idol-gods.' The case of Marcus Arethusius is famous in story, who chose rather to suffer death under Julian than rebuild a temple which he had demolished by law in the time of Constantius, as is related at large by Gregory Nazianzen[64] and Sozomen[65]. And Theodoret[66] highly commends Abdas, a Persian bishop, for that

[62] Ibid. c. 8. (p. 89 a.) Nec enim differt, an extruas, vel exornes: si templum, si aram, si æediculam ejus instruxeris, si bracteam expresseris aut insignia, aut etiam domum fabricaveris. Major est ejusmodi opera, quæ non effigiem confert, sed auctoritatem.

[63] See before, ch. 3. s. 5. p. 140. n. 45.

[64] [Orat. 3.] Invect. 1. in Julian. (t. 1. p. 90 a.) Ἕως μὲν γὰρ βαρυτάτην ποιησάμενοι τοῦ ναοῦ τὴν ἀποτίμησιν τὰ πᾶν ᾔτουν χρυσίον, ἢ αὐτόν γε ἀναδείμασθαι τὸν νεὼν ἐκέλευον· κ. τ. λ.

[65] L. 5. c. 9. (v. 2. p. 194. 34.) Προθυμότερον ἢ κατὰ πειθὼ, Κωνσταντίου βασιλεύσαντος, τοὺς Ἑλληνιστὰς εἰς Χριστιανισμὸν ἐπανῆγε, καὶ τὸν παρ' αὐτοῖς σεμνότατον καὶ πολυτελέστατον ναὸν καθεῖλεν. Ἐπεὶ δὲ μετέπεσεν εἰς Ἰουλιανὸν ἡ ἀρχὴ, κεκινημένον ἐπ' αὐτὸν τὸν δῆμον ὁρῶν, ἅμα δὲ καὶ κατὰ πρόσταγμα βασιλέως καταδικασθεὶς, ἢ τὴν ἀποτίμησιν τοῦ ναοῦ ἐκτίσαι, ἢ τοῦτον ἀνοικοδομῆσαι· λογισάμενος ὡς ἀδύνατον ἑκάτερον, Χριστιανῷ δὲ ἄλλως ἀθέμιτον τὸ δεύτερον, μήτι γὲ δὴ ἱερεῖ, ἔφυγε τὰ πρῶτα· μαθὼν δὲ δι' αὐτὸν κινδυνεύειν πολλοὺς, ἑλκυσμάτων τὲ καὶ δικαστηρίων καὶ τῶν ἐν τούτοις πειρᾶσθαι δεινῶν, ἐπανῆλθεν ἀπὸ τῆς φυγῆς, καὶ ἐθελοντὴς ὅ, τι βούλοιντο αὐτὸν δρᾷν, τῷ πλήθει προσήγαγεν.—Conf. Theodoret. l. 3. c. 7. (v. 3. p. 128. 37.) Τὸ δέ γε Μάρκου τοῦ Ἀρεθουσίων ἐπισκόπου δρᾶμα, κ. τ. λ.

[66] L. 5. c. 39. (v. 3. p. 239. 6.)

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having demolished a *pyræum*, a temple where the Persians worshipped fire as a god, though he did this without any legal authority, yet he rather chose to suffer death than rebuild it; because it was the same thing to build a temple to the idol as to worship it. And St. Chrysostom[67] says, it was a very common thing in the time of Julian to call upon all those, who had been concerned in demolishing temples in the preceding reigns of Constantine and Constantius, and prosecute them to death, because they refused to rebuild them.

Of merchants selling frankincense to the idol-temples, and the buyers and sellers of the public victims.

13. Among other promoters and encouragers of idolatry they reckoned all merchants selling frankincense to the idol-temples, and all who made a trade of buying and selling the public victims. Tertullian styles all these, *procuratores idololatriæ, purveyors for idolatry.* And he expressly says of those who bought and sold the public victims[68], 'that no Church would receive them to baptism without obliging them to renounce that unlawful profession, nor suffer them to continue in her communion if they were already of the number of the faithful.' And hence he argues[69] more strongly against the *thurarii*, as he terms those who made a livelihood of selling frankincense to the temples, which he reckons the worse of the two: 'With what face can the Christian seller of

Ἄβδας τὶς ἐπίσκοπος ἦν, πολλοῖς κοσμούμενος εἴδεσιν ἀρετῆς· οὗτος οὐκ εἰς δέον τῷ ζήλῳ χρησάμενος πυρεῖον κατέλυσε· πυρεῖα δὲ καλοῦσιν ἐκεῖνοι τοῦ πυρὸς τοὺς νεώς, θεὸν γὰρ τὸ πῦρ ὑπειλήφασι. Τοῦτο μαθὼν παρὰ τῶν μάγων ὁ βασιλεὺς μετεστείλατο τὸν Ἄβδαν· καὶ πρῶτον μὲν ἠπίως τὸ πραχθὲν ᾐτιάσατο, καὶ τὸ πυρεῖον οἰκοδομῆσαι προσέταξεν· ἐκείνου δὲ ἀντιλέγοντος, καὶ τοῦτο δράσειν ἥκιστα φάσκοντος, πάσας καταλύσειν τὰς ἐκκλησίας ἠπείλησε. Καὶ μέντοι καὶ τέλος ἐπέθηκεν οἷς ἠπείλησε· πρότερον γὰρ τὸν θεῖον ἄνδρα ἐκεῖνον ἀναιρεθῆναι κελεύσας καταλυθῆναι τὰς ἐκκλησίας προσέταξεν. Ἐγὼ δὲ τὴν μὲν τοῦ πυρείου κατάλυσιν οὐκ εἰς καιρὸν γεγενῆσθαι φημί· .. τὸ δὲ τὸν καταλυθέντα μὴ ἀνοικοδομῆσαι νεὼν, ἀλλὰ τὴν σφαγὴν ἑλέσθαι μᾶλλον ἢ τοῦτο δρᾶσαι, κομιδῇ θαυμάζω, καὶ στεφάνων τιμῶμαι· ἴσον γάρ μοι δοκεῖ τοῦ προσκυνῆσαι τὸ πῦρ τὸ [τὸ] τέμενος δείμασθαι.

[67] Hom. 40. in Juventin. et Maxim. t. 1. p. 548. (t. 2. p. 580 a.) ... *Ἀλλὰ εἴ τις ἦν ἐν τοῖς ἔμπροσθεν χρόνοις, ἡνίκα βασιλεῖς ἦσαν εὐσεβεῖς, ἢ βωμοὺς καταλύσας, ἢ ναοὺς κατασκάψας, ἢ ἀναθήματα λαβὼν, ἢ ἀλλ' ὁτιοῦν τοιοῦτον ἐργασάμενος, εἰς δικαστήριον εἵλκετο καὶ ἐσφάζετο, κ. τ. λ.*

[68] De Idolol. c. 11. (p. 92 a.) Si publicarum victimarum redemptor ad fidem accedat, permittes ei in eo negotio permanere? Aut si jam fidelis id agere susceperit, retinendum in ecclesia putabis? Non opinor.

[69] Ibid. c. 11. (p. 92 a.) Quo ore Christianus thurarius, si per templa transibit, fumantes aras despuet, et exsufflabit, quibus ipse prospexit? Qua constantia exorcizabit alumnos suos, quibus domum suam cellariam præstat?

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frankincense, if he chance to go through a temple, spit at the smoking altars, and show his detestation of those idols for which he himself has been the purveyor? With what heart or courage can he pretend to exorcize those devils to whom he has been a foster-father, and made his house a shop to furnish materials for their service?' Hence upon the whole matter he concludes[70], 'that no art, profession, business, or trade, could be wholly free from the imputation of idolatry, which was instrumental and subservient either in making of idols, or furnishing out what was necessary to the support of their worship and service.'

Of eating things offered to idols. How and when it stood chargeable with idolatry.

14. The case of eating things offered to idols is resolved by the Apostle. It was never lawful to do it in an idol-temple, because that was to partake of the sacrifice as a sacrifice, and to communicate with devils; which was an hardening of the Gentiles, and a scandal to the Church of God. The Nicolaitans are condemned for this in Scripture, and the practice of the Basilidians and Valentinians by writers[71] of the following ages. The Acts of Lucian the Martyr[72] tell us, he chose rather to die with hunger than to eat things offered to idols, when his persecutors would allow him no other sustenance in prison. And Baronius gives another such instance in the people of Constantinople[73], who, when Julian had ordered all the meat in the shambles to be polluted with idolatrous lustrations,

[70] Ibid. (b.) .... Nulla ars, nulla professio, nulla negotiatio, quæ quid aut instruendis aut formandis idolis administrat, carere poterit titulo idololatriæ: nisi si aliud omnino interpretemur idololatriam, quam famulatum idolorum colendorum.

[71] Agrippa Castor, ap. Euseb. l. 4. c. 7. (v. 1. p. 148. 8.) .... *Ὧν εἰς ἡμᾶς κατῆλθεν ἐν τοῖς τότε γνωριμωτάτου συγγραφέως Ἀγρίππα Κάστορος ἱκανώτατος κατὰ Βασιλείδου ἔλεγχος, τὴν δεινότητα τῆς τἀνδρὸς ἀποκαλύπτων γοητείας· .... διδάσκειν τε, ἀδιαφορεῖν εἰδωλοθύτων ἀπογευομένους, καὶ ἐξομνυμένους ἀπαραφυλακτῶς τὴν πίστιν κατὰ τοὺς τῶν διωγμῶν καιρούς.*—Irenæus, l. 1. c. 1. n. 12. (p. 30. 18.) *Εἰδωλόθυτα ἀδιαφόρως ἐσθίουσι, μηδὲ μολύνεσθαι ὑπ' αὐτῶν ἡγούμενοι.*

[72] Ap. Baron. an. 311. n. 6. (t. 3. p. 56 e.) Eum etiam arcebant ab omni cibo, nisi vellet vesci iis, quæ ab ipsis sacrificabantur: ea enim affatim porrigebant. Ille autem maluisset subire mortes vel innumerabiles, et lubentius manens jejunus, paulatim a fame esset consumptus, quam vel illorum solum passus esset conspectum.

[73] An. 362. [n. 43.] p. 24. (t. 4. (p. 24 d.) Cuncta cibaria, quæ venum publice in foris expóni solerent, sacrificiis diis immolatis infecit ac polluit, ut sic illi omnes cibis cogerentur vesci immolatitiis, nisi fame confici penitus vellent. Cum oraculo Theodori martyris, quonam modo consulendum esset fidelibus fame periclitantibus, fuit divinitus demonstratum, nempe ut tunc, loco panis, cocto omnes frumento uterentur in cibum.

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freely abstained from it, and used boiled corn instead of bread; so defeating the tyrant's malicious intention. Not that it had been any idolatry to have eaten such meat in such a case: for the Apostle allows it, where it may be done without either communicating with the idols, or giving scandal to the weak: "Whatever is sold in the shambles, eat, asking no questions for conscience' sake:" [1 Cor. 10, 25.] and, upon this warrant of the Apostle, Theodoret[74] justifies the people of Antioch in another such case. For Julian made use of the same devilish stratagem to ensnare them, polluting all the fountains of Antioch and Daphne, and all the meat in the shambles with his idolatrous rites, and all the bread and fruits of the earth and herbs, that the Christians might have nothing to eat but what was offered in sacrifice to idols. Which is also noted by Chrysostom[75], and others, who speak of the diabolical wiles of Julian. But in this case the Christians made no scruple of eating any thing, notwithstanding the policy of their adversary, as knowing that the good creatures of God could not be defiled by any such wicked contrivances, so long as they did not consent to them, or communicate in them: "For the earth is the Lord's and the fulness thereof," and what was "sanctified to them by the word of God and prayer," could not be unsanctified or polluted by any profane abuses. [See 1 Cor. 10, 26 and 28, with 1 Tim. 4, 5.]

Whether a Christian out of curiosity might be present at an idol-sacrifice, not

15. But where there was any real communication with idolatry, or any just ground for a suspicion of it, it was at no hand allowable to give the least countenance to it, or any umbrage to surmise an approbation of it. For this reason the Council of Eliberis[76] forbids any Christian to go to the Capitol,

[74] L. 3. c. 15. (v. 3. p. 134. 42.) *Πρῶτον μὴν γὰρ τὰς ἐν τῷ ἄστει καὶ τὰς ἐν Δάφνῃ πηγὰς ταῖς μυσαραῖς θυσίαις ἐμόλυνεν, ἵν ἕκαστος ἀπολαύων τοῦ νάματος μεταλαγχάνῃ τοῦ μυσους· ἔπειτα δὲ καὶ τὰ κατὰ τὴν ἀγορὰν προκείμενα τοῦ μιάσματος ἐνεπίμπλα· περιερραίνοντο γὰρ καὶ ἄρτοι, καὶ κρέα, καὶ ὀπῶραι, καὶ λάχανα, καὶ ὅσα ἄλλα ἐδώδιμα. Ταῦτα ὁρῶντες, οἱ τῆς τοῦ σεσωκότος προσηγορίας τετυχηκότες, ἔστενον μὲν καὶ ὠλοφύροντο βδελυττόμενοι τὰ γινόμενα· μετελάμβανον δὲ ὅμως, ἀποστολικῷ πειθόμενοι νόμῳ· Πᾶν γάρ, φησι, τὸ ἐν μακέλλῳ πωλούμενον ἐσθίετε, μηδὲν ἀνακρίνοντες διὰ τὴν συνείδησιν.*

[75] Hom. 4. de Laudibus Pauli, t. 5. p. 593. (t. 2. p. 493 a.) *Πάλιν αἱ πηγαὶ αἱ παρ' ἡμῖν, αἱ νικῶσαι τῷ ῥεύματι τοὺς ποταμούς, ἀθρόον ἔφυγον καὶ ἀπεπήδησαν, μηδέποτε τοῦτο παθοῦσαι πρότερον, ἀλλ' ὅτε θυσίαις καὶ σπονδαῖς τὸ χωρίον ἐμόλυνεν ὁ βασιλεύς.*

[76] C. 59. (t. 1. p. 976 e.) Prohibendum ne quis Christianus, ut Gentilis ad idolum Capitolii causa

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or idol-temple, so much as only out of curiosity to see the sacrifice offered, under the penalty of ten years' penance imposed upon them. Albaspiny[77] rightly observes, that though there be a little obscurity in the original wording of the canon, yet it must needs intend to prohibit the going to see the sacrifice: for otherwise, if they went to sacrifice, not only a ten years' penance, but a penance for their whole lives was imposed upon them by the two first canons of this Council. So that the plain sense of the canon must be, that if, as a Heathen went to sacrifice, so a Christian went only to see the sacrifice, he should be held guilty of the same crime, and do ten years' penance for it. Yet this was to be understood if he had no other call but curiosity to carry him thither: for if by any necessary office or duty of his station he went thither, this was no crime: as if he was of the prince's guard, and only went to attend his sovereign, he was guiltless, because he went not to see the sacrifice, but to do his duty. Thus Theodoret[78] says, Valentinian, when he was a tribune and captain of the guard to Julian, attended his master to the temple of Fortune: but when the door-keepers according to custom sprinkled their lustral or holy water upon those that went in, and a drop of it

joining in the service.

sacrificandi, ascendat et videat: quod si fecerit, pari crimine teneatur. Si fuerit fidelis post decem annos acta pœnitentia recipiatur.

[77] In loc. (CC. ibid. p. 1003 e.) Arbitror ita legendum esse *causa sacrificii*: subintellige *videndi*: nam si animo sacrificandi interfuissent, atrociori supplicio afficerentur, neque in morte iis ad communionem aspirare liceret. *Quod si fuerit* [leg. *fecerit*] Si ad Capitolium ascenderit ut sacrificio interesset, neque tamen illud aspicere, aut intueri, ei licuerit, pari pœna supplicioque mulctetur, atque illud si oculis usurpasset, cum ejus voluntas fuerit, ut videret: neque vero sensus sententiaque ita perspicua manifestaque, si de iis sermonem fieri dicamus, qui sacrificandi causa eo pergerent, qui tamen non sacrificarent, quique tantum id a se visum esse et spectatum lætarentur, quia nec in morte communione erant donandi, qui sacrificaverant, ut ex primo canone constat.

[78] L. 3. c. 16. (v. 3. p. 136. 5.)... Οὐαλεντινιανὸς ἐκεῖνος, ὁ μικρὸν ὕστερον βασιλεύσας, χιλίαρχος δὲ ἦν τηνικαῦτα τῶν περὶ τὰ βασίλεια τεταγμένων λογχοφόρων ἡγούμενος, ὃν εἶχεν ὑπὲρ τῆς εὐσεβείας οὐκ ἀπέκρυψε ζῆλον· ὁ μὴν γὰρ ἐμβρόντητος ἐκεῖνος εἰς τὸ τῆς Τύχης τέμενος εἰσῄει χορεύων· ἑκατέρωθεν τῶν θυρῶν εἱστήκεισαν νηωκόροι περιρραντηρίοις τοὺς εἰσιόντας προκαθαίροντες, ὡς ἐνόμιζον. Ἐπειδὴ δὲ τοῦ βασιλέως ἡγούμενος τῇ χλανίδι ῥανίδα πελάσασαν εἶδεν Οὐαλεντινιανὸς, ὁ βασιλείας ἑκατέρας τούτου χάριν τετυχηκὼς, πὺξ ἔπαισε τὸν νεωκόρον, μεμολύνθαι φήσας, οὐ κεκαθάρθαι. Θεασάμενος δὲ τὸ γεγονὸς ὁ ἐξάγιστος εἰς φρούριον αὐτὸν παρὰ τὴν ἔρημον κείμενον ἐξέπεμψεν, αὐτόθι διάγειν προστεταχώς· ἀλλ' ἐκεῖνος μὴν, ἐνιαυτοῦ καὶ μηνῶν διεληλυθότων ὀλίγων, μισθὸν τῆς ὁμολογίας τὴν βασιλείαν ἐδέξατο.—Vid. Sozomen. l. 6. c. 6. (v. 2. p. 226. 2.) Δέγεται γὰρ, κ. τ. λ.

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fell upon his coat, he gave the man a blow upon the face, telling him he did not think himself purified but profaned. And by this act, says Theodoret, he merited two kingdoms, both an earthly and an heavenly. For Julian immediately banished him for the fact, and confined him to a castle in the desert: but before a year and a few months were past, this noble confessor was rewarded with the imperial crown and the dignity of the Roman empire.

By this it appears they put a great difference between going to a temple out of mere impertinency and curiosity to see the idolatrous rites and sacrifices, and going thither only upon the necessary obligations of their duty and function. And Tertullian [79], who is as severe as any in this matter, owns the reasonableness of this distinction. 'It were to be wished,' says he, 'that we could live without seeing those things which we cannot lawfully practice: but because idolatry has so filled the world with evils, a man may be present in some cases, where duty binds him to the man, and not to the idol. If I am called to a priesthood or to a sacrifice, I will not go: for that is the proper office or service of the idol: neither will I contribute by my counsel, or my expense, or my labour to any such thing. If when I am called to a sacrifice, I go and assist, I am partaker of the idolatry: but if any other cause joins me to the sacrificer, I am only a spectator of the sacrifice.' He applies this particularly to slaves waiting on their Heathen masters, and children or clients on their patrons or parents, and officers on governors and judges. 'If we are careful to observe this rule, neither by word nor deed to give any assistance to the

[79] De Idolol. cc. 16, 17. (pp. 95 c, et 96 a.) Utinam ... nec videre possemus, quæ facere nobis nefas est. Sed quoniam ita Malus circumdedit sæculum idololatria, licebit adesse in quibusdam, quæ nos homini, non idolo, officiosos habent. Plane ad sacerdotium et sacrificium vocatus non ibo, proprium enim idoli officium est; sed neque consilio, neque sumptu, aliave opera in ejusmodi fungar. Si propter sacrificium vocatus assistam, ero particeps idololatriæ: si me alia causa conjungit sacrificanti, ero tantum spectator sacrificii. Cæterum quid facient servi vel liberti fideles? item officiales sacrificantibus dominis, vel patronis, vel præsidibus [suis] adhærentes? Sed si merum quis sacrificanti tradiderit, immo si verbo quoque aliquo sacrificio necessario adjuverit, minister habebitur idololatriæ. Hujus regulæ memores etiam magistratibus et potestatibus officium possumus reddere secundum patriarchas et cæteros majores, qui regibus idololatris usque ad finem idololatriæ apparuerunt.

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idolatrous service, we may attend on magistrates and powers, after the example of the patriarchs and others of our ancestors, who waited on idolatrous kings, *usque ad finem idololatriæ, as far as the confines of idolatry would permit them.*' He gives the same resolution in some other private and common cases[80], as a Christian's being obliged to attend the solemnity of giving a youth the *toga virilis, the habit of a man,* the solemnity of espousals or nuptials, or the manumission of a slave, or giving him a new name. For all these things were innocent in themselves: and though idolatrous rites were usually mixed with them, yet a man might be present without communicating in those rites, distinguishing the causes which required his attendance. They were pure and clean in their own nature: for neither does the habit of a man, nor the ring of espousals, nor the joining of man and woman in marriage, descend originally from any honour of an idol: for all these things are allowed by God; and though sacrifices were used in the ceremony, yet a man whose office and business was not in the sacrifice, but required upon some other account, might lawfully attend them without defilement.' This was the resolution of all such cases where some obligation of office or duty required a man's presence at some idolatrous service; not as contributing any ways his assistance in it, or communicating either directly or indirectly in the service, but only performing what properly belonged to him by virtue of his lawful employment; and being ready, like Valentinian, to show his aversion to all superstitious and idolatrous rites when any more peculiar occasion required it. The being present barely to perform some other duty was not interpreted in this case any communicating with idolatry, because the very tenour of his obligation and duty sufficiently demonstrated it to be otherwise.

Whether he might eat his own meat in an idol temple.

16. But where a man had no such necessary call or obligation to perform any duty that required his presence in a temple, then to be present at an idolatrous service, or do any thing

[80] Ibid. c. 16. (p. 95 c.) Circa officia vero privatarum et communium solemnitatum, ut togæ puræ, ut sponsalium, ut nuptialium, ut nominalium, nullum putem periculum observari de afflatu idololatriæ, quæ intervenit. Causæ enim sunt considerandæ, quibus præstatur officium. Eas mundas esse opinor per semetipsas, quia neque vestitus virilis, neque annulus, aut conjunctio maritalis de alicujus idoli honore descendit; &c.

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that might look with a suspicious aspect towards it, was a sufficient reason to bring him under ecclesiastical censure. Thus no one could pretend any just reason to carry his own meat and eat it in an idol-temple, but this must needs imply some disposition towards idolatry: and therefore the Council of Ancyra made a decree[81], 'that such as feasted with the Heathen upon any idol-festival in any place set apart for that service, though they carried their own meat and eat it there, should do two years' penance for it.' The canon does not expressly call the place an idol-temple, but *τόπον ἀφωρισμένον, a place set apart for the service:* which, whether we take it for a temple, or any other place of feasting, is all one; since it was a place appropriated to the worship of the idol on a festival peculiarly dedicated to the honour of some Heathen god.

Or feast with the Heathens on their idol-festivals.

17. And this sort of feasting with the Heathen on their proper festivals, whether in a temple or out of a temple, was precisely forbidden under the notion of 'communicating with them in their impiety.' Which are the express words of the Council of Laodicea[82], prohibiting this practice of keeping such festivals with the Gentiles. Among the Apostolical Canons, there is also one[83] that forbids Christians to carry oil to any Heathen temple, or Jewish synagogue, or to set up lights on their festivals under the penalty of excommunication. Which shows that Christians were sometimes inclined to concur with the Heathens in this practice.

And this seems to be the most rational sense that can be given of those two canons of the Council of Eliberis, which so much trouble interpreters; the one of which[84] forbids the lighting wax-candles by day in the cemeteries or burying-places of the martyrs, for fear of disquieting the spirits of the saints, under the penalty of excommunication: and the other[85]

[81] C. 7. See before, s. 5. p. 202. n. 15.

[82] C. 39. (t. 1. p. 1504 c.) *Ὅτι οὐ δεῖ τοῖς ἔθνεσι συνεορτάζειν καὶ κοινωνεῖν τῇ ἀθεότητι αὐτῶν.*

[83] C. 71. [juxt. Labb. c. 70.] (Cotel. [c. 63.] v. 1. p. 446.) *Εἴ τις Χριστιανὸς ἔλαιον ἀπενέγκοι εἰς ἱερὸν ἐθνῶν, ἢ εἰς συναγωγὴν Ἰουδαίων, ἢ ἐν ταῖς ἑορταῖς αὐτῶν λύχνους ἅψῃ ἀφοριζέσθω.*

[84] C. 34. (t. 1. p. 674 d.) Cereos per diem placuit in cœmeterio non incendi. Inquietandi enim sanctorum spiritus non sunt. Qui hæc non observaverint, arceantur ab ecclesiæ communione.

[85] C. 37. (ibid. e.) . . . . Prohibendi [al. prohibendum] etiam ne lucernas publice accendant. Si facere contra interdictum voluerint, abstineant a communione.

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prohibits the setting up of lamps in public under the same penalty of being cast out of the communion of the Church.' Albaspiny [86] thinks these orders were made upon a mistaken notion, that the souls of the martyrs were still waiting under the altars; which, he says, was the opinion of Cyprian and Tertullian. But it is more probable that the Council forbad these rites upon another ground, because they were superstitious and idolatrous rites used by the Heathen in their solemnities, as is expressly said by Tertullian [87], and many others collected by Baronius [88]. And this seems to be the true

[86] Ad C. Eliber. c. 34. (CC. t. 1. p. 998 a.) Ego autem facile adducor, ut credam Concilii illius patres opinionem mentemque Tertulliani, D. Cypriani, et eorum, qui ea ætate florerent, secutos, qui animas martyrum sub altaribus hærere et habitare, ibique, dum eorum mortem Deus ulcisceretur, expectare senserunt: atque adeo verba illa, capite 6. Apocalyps., ad verbum tueri ac recipere Divum Cyprianum de Lapsis: *Sub ara Dei animæ occisorum martyrum clamant magna voce, dicentes, Quousque Domine, sanctus et verus, non judicas et vindicas sanguinem nostrum de iis, qui in terris inhabitant? et requiescere et patientiam adhuc tenere jubentur. Et quenquam posse aliquis existimat remittendis passim donandisque peccatis bonum fieri contra judicem velle, aut, priusquam vindicetur ipse, alios posse defendere?* Quibus credere videtur martyrum animas sub aris quiescere. Idem de Bono Patientiæ: *Unde etiam clamantes martyres, et ad vindictam suam dolore erumpente properantes, expectare adhuc jubentur, et temporibus consummandis implendisque martyribus præbere patientiam. Et cum aperuisset, inquit, Agnus quintum sigillum, vidi sub ara Dei animas occisorum propter verbum Dei et martyrium suum, et clamaverunt voce magna, dicentes.* Idem ad Quirinum, libro tertio: *Et cum aperuisset quintum signum, vidi sub ara Dei animas occisorum propter verbum Dei et martyrium suum.* Tertullianus de Resurrect. Carnis, capite 25: *Etiam in Apocalypsi Joannis ordo temporum sternitur, quem martyrum quoque animæ sub altari, ultionem et judicium flagitantes, sustinere didicerunt; ut prius et orbis de pateris angelorum plagas suas ebibat, et prostituta illa civitas a decem regibus dignos exitus referat, et bestia Antichristus cum suo pseudopropheta certamen ecclesiæ Dei inferat; atque ita, Diabolo in abyssum interim relegato, primæ resurrectionis prærogativa de soliis ordinetur: dehinc, et igni dato, universalis resurrectionis censura de libris judicetur.* Idem de Anima, capite 8: *Sol enim corpus, siquidem ignis: sed quod aquila confiteatur, neget noctua, non tamen præjudicans aquilæ: tantumdem et animæ corpus invisibile carni si forte, spiritui vero visibile; sic Joannes, in Spiritu Dei factus, animas martyrum conspicit.*—Idem adversus Gnosticos, capite 11: *Sed et interim sub altari martyrum animæ placidum quiescunt, et fiducia ultionis candidum claritatis usurpant, donec et alii consortium illarum gloriæ impleant, &c.*

[87] Apolog. c. 35. (p. 28.) Grande videlicet officium, focos et toros in publicum educere, vicatim epulari, &c.—Ibid. c. 46. (p. 35 c.) Quis enim philosophum sacrificare, aut dejerare, aut lucernas meridie vanas prostituere compellit?—De Idolol. c. 15. (p. 94 b.) Sed luceant, inquit, opera vestra. At nunc lucent tabernæ et januæ nostræ.... De ista quoque specie quid videtur? Si idoli honor est, sine dubio idoli honor idololatria est, &c. [See the chapter throughout. Ed.]

[88] An. 58. n. 72. (t. 1. p. 545 a.) Haud equidem est dubium, &c.

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reason why the Council forbad them, that Christians might not symbolize with the Heathens in such superstitious practices.

But, to proceed, the Heathen festivals are known to the Civil Law under the general name of *vota*, and *votorum celebritas, solemn days of prayer and worship of their gods:* and, as Gothofred [89] has accurately distinguished them, they comprised, First, all their *ludi*, or *days of public shows*, which were in honour of their gods. Among which the *Maiuma* is very famous, there being a title in the Theodosian Code [90] concerning the permission and regulation of it under the Christian emperors, till at last it was finally put down by Arcadius. Secondly, their other days of public feasting. Thirdly, the Kalends of January or beginning of a new year: against the superstitious observations of which there are frequent invectives in the writings of the Ancients, particularly in St. Ambrose [91], Asterius Amasenus [92], and Prudentius [93]. Fourthly, the third of January, which was a noted festival or day of Heathen devotion for the emperor's safety. Among these may be also reckoned their *Bromialia*, forbidden by the Council of Trullo [94]: and the *Neomenia*, or *New Moons*, against which St. Chrysostom has a whole discourse [95] to dissuade Christians from the observation of them: where he particularly inveighs

[89] In Cod. Theod. l. 16. tit. 10. de Paganis, leg. 8. (t. 6. p. 269. sub med. col. dextr.) *Votorum* celebritas seu vota publica .... sunt, primo *Ludi*, &c.

[90] De Maiuma, l. 15. tit. 6. (t. 5. p. 375.) Conf. legg. 1, 2.

[91] Serm. 17. [al. 7.] (t. 2. append. p. 400 b. n. 3.) Janus enim homo fuit unius conditor civitatis, quæ Janiculum nuncupatur; in cujus honorem a gentibus Kalendæ sunt Januariæ nuncupatæ: unde, qui Kalendas Januarias colit, peccat, quoniam homini mortuo defert divinitatis obsequium.

[92] Hom. 4. de Fest. Kalend. (ap. Combefis. Auctar. Nov. pp. 65, seqq.) Δύο κατὰ ταὐτὸν ἑορταὶ συνέδραμον ἐπὶ τῆς χθίζης καὶ τῆς ἐνεστώσης ἡμέρας· κ. τ. λ.

[93] Cont. Symmach. l. 1. vv. 237-240. (v. 1. p. 736.)

.... Jano etiam celebri de mense litatur
Auspiciis epulisque sacris, quas inveterato,
Heu miseri, sub honore agitant, et gaudia ducunt
Festa kalendarum.

[94] C. 62. See further on, p. 230. n. 5.—Conf. c. 65. (t. 6. p. 1171 c.) Τὰς ἐν ταῖς νεομηνίσις ὑπό τινων πρὸ τῶν οἰκείων ἐργαστηρίων καὶ οἴκων ἀναπτομένας πυρκαϊὰς, ἃς καὶ ὑπεράλλεσθαί τινες κατά τι ἔθος ἀρχαῖον ἐπιχειροῦσιν, ἀπὸ τοῦ παρόντος καταργηθῆναι προστάσσομεν.

[95] Hom. 23. In eos, qui Novilunia observant. t. 1. p. 297. [al. in Kalend.] (t. 1. p. 699 a.).. Παρατηροῦσιν ἡμέρας, .. καὶ οἰωνίζονται, καὶ νομίζουσιν, εἰ τὴν νουμηνίαν τοῦ μηνὸς τούτου μεθ' ἡδονῆς καὶ εὐφροσύνης ἐπιτελέσαιεν, καὶ τὸν ἅπαντα τοιοῦτον ἕξειν ἐνιαυτόν... Γυναῖκες καὶ ἄνδρες φιάλας καὶ ποτήρια πληρώσαντες μετὰ πολλῆς τῆς ἀσωτίας τὸν ἄκρατον πίνουσι.

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against the impious superstition that was still reigning in men's hearts, as the relics of Paganism. For they were superstitiously addicted to observation of times, and made divination and conjectures upon them; as, if they spent the new moon of such a month in mirth and pleasure, the whole year following would be prosperous and lucky to them. So both men and women gave themselves to intemperance and excess on these days, out of this 'diabolical persuasion,' as he justly terms it, that the good or bad fortune of the rest of the year depended upon such an ominous beginning of it. Which was the Devil's invention to ruin the practice of all virtue. He observes further [96], that they were used in the celebration of these times to set up lamps in the market-place, and crown their doors with garlands, which he condemns together with their superstition and intemperance, as a mixture of diabolical pomp and childish folly. By which we see how prone men were to follow the Heathen in such practices, even when they were delivered both from their ignorance and compulsion: and much more, may we suppose, were they under a temptation to comply with them in the observation of their festivals, whilst they were under the terror of their laws and violent persecutions. Nay, even in St. Austin's time the Heathen were so insolent in Afric as to compel the Christians to observe their festivals, of which the African fathers in the fifth Council of Carthage [97] were forced to complain to the Emperor Honorius, and petition him by his authority to redress the grievance. They represent to him 'how the Pagans, in many places, not only kept their superstitious

[96] Hom. 23. p. 300. (ibid. p. 701 b.).... *Καὶ λύχνους ἅπτειν ἐπὶ τῆς ἀγορᾶς, καὶ στεφανώματα πλέκειν, παιδικῆς ἀνοίας ἐστίν.*

[97] C. 5. (t. 2. p. 1216 b.) Illud etiam petendum, ut quoniam contra præcepta divina convivia multis locis exercentur, quæ ab errore Gentili attracta sunt, ita ut nunc a Paganis Christiani ad hæc celebranda cogantur, ex qua re temporibus Christianorum Imperatorum persecutio altera fieri occulte videatur, vetari talia jubeant, et de civitatibus et de possessionibus imposita pœna, prohibere. [This citation is apparently erroneous. See ibid. c. 15. (p. 1218 b.) Item placuit ab imperatoribus gloriosissimis peti ut reliquiæ idololatriæ, &c. But the Author, while citing the fifth Council of Carthage as above, seems to quote the Latin version of the Codex Africanus, c. 63. [al. 60.] (CC. ibid. p. 1086 d.) *Κἀκεῖνο ἔτι μὴν δεῖ αἰτῆσαι παρὰ τῶν Χριστιανῶν βασιλέων, ἐπειδὴ παρὰ τὰ θεῖα παραγγέλματα ἐν πολλοῖς τύποις συμπόσια οὕτως ἐπιτελοῦνται, ἐκ τῆς ἐθνικῆς πλάνης προσενεχθέντα, ὡς καὶ Χριστιανοὺς τοῖς Ἕλλησι λάθρα προσυνάγεσθαι ἐν τῇ τούτων τελετῇ· ἵνα κελεύσωσι τὰ τοιαῦτα κωλυθῆναι καὶ ἐκ τῶν πόλεων καὶ ἐκ τῶν κτήσεων.* Ed.]

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feasts themselves, but forced the Christians to join with them; so that it looked like a secret persecution under Christian emperors: wherefore they desired him to make a law to prohibit them both in city and country, and restrain them by some suitable penalty inflicted on them.' Which at first Honorius refused to grant, but afterward he complied with their request upon more mature deliberation.

The law is still exstant in the Theodosian Code [98], forbidding all holding of feasts or other solemnities in temples in honour of the gods; and enjoining all bishops and judges of the provinces to take care of the execution of it. Yet this did not so root out the superstition, but that many Heathens still continued in it; and some looser Christians were ready enough, either to join with the Heathen in their practices, or at least to imitate the luxury and vanity of them under the notion of Christian observations.

St. Austin makes a bitter complaint in one of his Epistles [99] of the insolence of the Heathen immediately after the publish-

[98] L. 16. tit. 10. de Paganis, leg. 19. (t. 6. p. 288.) Non liceat omnino in honorem sacrilegi ritus funestioribus locis exercere convivia, et quidquam solemnitatis agitare. Episcopis quoque locorum hæc ipsa prohibendi ecclesiasticæ manus tribuimus facultatem; judices autem viginti librarum auri pœna constringimus, et pari forma officia eorum, si hæc eorum fuerint dissimulatione neglecta.

[99] Ep. 202. [al. 91.] ad Nectarium. (t. 2. p. 226 g. et p. 227 a.) Contra recentissimas leges Kalendis Juniis festo Paganorum sacrilega solemnitas agitata est, nemine prohibente, tam insolenti ausu, ut, quod nec Juliani temporibus factum est, petulantissima turba saltantium in eodem prorsus vico ante fores transiret ecclesiæ, quam rem illicitissimam atque indignissimam clericis prohibere tentantibus, ecclesia lapidata est. Deinde post dies ferme octo, cum leges notissimas episcopus ordini replicasset, et dum ea quæ jussa sunt, velut implere disponunt, iterum ecclesia lapidata est. Postridie nostris ad imponendum perditis metum, quod videbatur apud Acta dicere volentibus publica jura negata sunt. Eodemque ipso die, ut vel divinitus terrerentur, grando lapidationibus reddita est; qua transacta continuo tertiam lapidationem, et postremo ignes ecclesiasticis tectis atque hominibus intulerunt; unum servorum Dei, qui oberrans occurrere potuit, occiderunt, cæteris partim ubi potuerant latitantibus, partim qua potuerant fugientibus, cum interea contrusus atque coartatus quodam loco se occultaret episcopus, ubi se ad mortem quærentium voces audiebat sibique increpantium, quod, eo non invento, gratis tantum perpetrassent scelus. Gesta sunt hæc ab hora ferme decima usque ad noctis partem non minimam. Nemo compescere, nemo subvenire tentavit illorum, quorum esse gravis posset auctoritas, præter unum peregrinum, per quem et plurimi servi Dei de manibus interficere conantium liberati sunt, et multa extorta prædantibus; per quem clarum factum est, quam facile illa vel omnino non fierent, vel cœpta desisterent, si cives maximeque primates ea fieri perficique vetuissent.

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ing of this law: how, upon one of their festivals on the Kalends of June, they came dancing in a petulant manner before the doors of the church: which when the clergy endeavoured to prohibit, they stoned the church: and when the bishop complained to the judges, they stoned it again, and a third time, setting fire to the houses belonging to the church, and killing some of the clergy, and causing others to fly for their lives. 'An insolent and daring attempt, not to be paralleled by any thing,' he says, 'that was done in the time of Julian.' And, what was worse than all, no one of the magistrates or chief men of the place either offered to quell the riot, or give any assistance to the sufferers, except a stranger of some authority, who delivered many of the servants of God out of their hands; whilst the rest only looked on the abuse with pleasure, and some of them were strongly suspected as working underhand to excite this tumult and set the Heathen upon them, being grieved at this new law, which laid a restraint upon these festivals, in which they were wont to take so much pleasure. Which shows how deeply the love of these Heathen festivals was rooted in the hearts of many carnal and libertine Christians.

In another Epistle[1] he makes as sad a complaint to Aurelius, bishop of Carthage, of the intemperance and debauchery, which many such Christians were wont to commit upon the festivals of their own martyrs, and other anniversary commemorations of their deceased friends; which was only acting all the impurity of the Heathen festivals under the name of Christian. He prays him therefore[2] to take some method to drive away such profane and sacrilegious impurities from the house of God. But he thinks this could not be done by any rough methods, or in any imperious way, but by instruction, rather than commanding; and by admonition, rather than threatening: for

[1] Ep. 64. [al. 22. c. 1.] ad Aurelium. (ibid. p. 28 a, b.) Comessationes enim et ebrietates ita concessæ et licitæ putantur, ut in honorem etiam beatissimorum martyrum, non solum per dies solemnes, (quod ipsum quis non lugendum videat, qui hæc non carnis oculis inspicit?) sed etiam quotidie celebrentur.—Ibid. (p. 29 a.) Sed quoniam istæ in cœmeteriis ebrietates et luxuriosa convivia, non solum honores martyrum a carnali et imperita plebe credi solent, sed etiam solatia mortuorum, mihi videtur, &c.

[2] Ibid. (p. 28 c.) .... Saltem de sanctorum corporum sepulchris, saltem de locis sacramentorum, de domibus orationum tantum dedecus arceatur.

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that was the only way to deal with a multitude[3]: the severity of discipline was only to be exercised upon sinners, when their numbers were small. This is a grievous complaint indeed, and he often repeats it in other places[4]: which shows how close the superstition and pleasure of the Heathen festivals stuck to the hearts of many ignorant and carnal men, even after they became Christian: and their multitudes in Afric were so great, that though their crimes deserved the severity of excommunication, yet St. Austin in such circumstances could not think that the proper remedy to cure the distemper. St. Ambrose and other Italian bishops, he says, did happily root out this evil custom, and that was some ground to hope it might be effected in Afric. But yet long after this we find the complaint renewed against Christians retaining the relics of Heathen superstition in this matter of observing festivals. For the Council of Trullo has a canon[5] that forbids the observation of the *Kalends*, and the *Bota*, and the *Brumalia*, and the solemnity of the first of March, or May, as different copies read it, and the

[3] Ibid. (f.) Non ergo aspere, quantum existimo, non duriter, non modo imperioso ista tolluntur; magis docendo, quam jubendo; magis monendo, quam minando. Sic enim agendum est cum multitudine; severitas autem exercenda est in peccata paucorum.

[4] Cont. Faust. l. 20. c. 21. (t. 8. p. 348 a.) Qui autem se in memoriis martyrum inebriant, quomodo a nobis approbari possunt, cum eos, etiam si in domibus suis id faciant, sana doctrina condemnet? Sed aliud est quod docemus, aliud quod sustinemus: aliud quod præcipere jubemur, aliud quod emendare præcipimur, et donec emendemus, tolerare compellimur. Alia est disciplina Christianorum, alia luxuria vinolentorum, vel error infirmorum. —De Civitat. Dei, l. 8. c. 27. (t. 7. p. 217 d.) Quicunque etiam epulas suas eo [ad martyrum loca] deferunt, quod quidem a Christianis melioribus non fit, et in plerisque terrarum nulla talis est consuetudo; tamen quicumque id faciunt, quas cum apposuerint, orant, et auferunt, ut vescantur, vel ex eis etiam indigentibus largiantur, sanctificari sibi eas volunt per merita martyrum in nomine Domini martyrum. — See before, ch. 3. s. 6. p. 153. n. 61.

[5] C. 62. (t. 6. p. 1170 d.) Τὰς οὕτω λεγομένας Καλάνδας, καὶ τὰ λεγόμενα Βοτὰ, καὶ τὰ καλούμενα Βρουμάλια, καὶ τὴν ἐν τῇ πρώτῃ τοῦ Μαρτίου μηνὸς ἡμέρᾳ τελουμένην πανήγυριν, καθάπαξ ἐκ τῆς τῶν πιστῶν πολιτείας περιαιρεθῆναι βουλόμεθα· ἀλλὰ μὴν καὶ τὰς τῶν γυναίων δημοσίας ὀρχήσεις, πολλὴν λύμην καὶ βλάβην ἐμποιεῖν δυναμένας· ἔτι μὴν καὶ τὰς ὀνόματι τῶν παρ' Ἕλλησι ψευδῶς ὀνομασθέντων θεῶν, ἢ ἐξ ἀνδρῶν ἢ γυναικῶν γενομένας ὀρχήσεις καὶ τελετὰς κατά τι ἔθος παλαιὸν καὶ ἀλλότριον τοῦ τῶν Χριστιανῶν βίου, ἀποπεμπόμεθα· ὁρίζοντες μηδένα ἄνδρα γυναικείαν στολὴν ἐνδιδύσκεσθαι, ἢ γυναῖκα τοῖς ἀνδράσιν ἁρμόδιον· ἀλλὰ μήτε προσωπεῖα κωμικὰ, ἢ σατυρικὰ, ἢ τραγικὰ ὑποδύεσθαι· μήτε τὸ τοῦ βδελυκτοῦ Διονύσου ὄνομα τὴν σταφυλὴν ἀποθλίβοντας ἐν τοῖς ληνοῖς ἐπιβοᾷν· μηδὲ τὸν οἶνον ἐν τοῖς πίθοις ἐπιχέοντας, ἀγνοίας τρόπῳ ἢ ματαιότητι, τὰ τῆς μανιώδους πλάνης ἐνεργοῦντας.

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public dancings, and other ceremonies used by men and women, as handed down by ancient custom under the names of the Heathen false gods: prohibiting likewise the interchanging of habits in men and women, and wearing of comical and tragical masks, and satirical dresses, and calling upon the name of Bacchus in treading the wine-press, with some other such ridiculous vanities, proceeding from the imposture of the Devil. The Kalends here signify the First of January. The *Bota* is explained by Balsamon, and others who follow him, to be the Feast of the god Pan, because βοτὰ signifies *sheep:* but Gothofred[6] and Suicerus[7] more judiciously render it *vota*, it being only the Latin name *vota* turned into Greek, and denoting the Heathen festival on the third of January for the safety of the emperor.

The *Brumalia* is by Balsamon understood of the feast of

[6] In Cod. Theod. l. 16. tit. 10. de Paganis, leg. 8. (t. 6. p. 270. ad summ. col. sinistr.) ..... Balsamo jocularitер lapsus est, qui τὰ βοτὰ ἀπὸ τῶν βοτῶν, id est, ἀπὸ τῶν προβάτων, deduxit, et festum id in Panis honorem agitari solitum prodidit.

[7] Thes. Eccles. (t. 1. p. 705.) Βοτὰ apud recentiores Græcos, *vota* et *votorum dies* Latinis appellantur, qui annum inchoant, ob solemnem pro salute principis votorum nuncupationem. Et quidem κυρίως tertius post kalendas Januarii dies appellatione *votorum* intelligitur, ut est in Lege 233. de verborum significatione, et apud Dionem, libr. 58., licet ipsis etiam kalendis suscepta pro principe vota, ut illo ipso loco scripsit Dio. Retinuere Christiani principes votorum et morem et appellationem, ut apparet ex titulo Codicis de Oblatione Votorum: et ex canone 62. Concilii in Trullo: Τὰς οὕτω, κ. τ. λ. [See n. 5, preceding.] Balsamon ad hunc canonem, pag. 436., de vocis βοτὰ origine suaviter philosophatur, dum illud Græcis suis vindicat, vultque esse illud nomen ei festo inditum ἀπὸ τῶν βοτῶν, ἤγουν προβάτων, quod in honorem Panis, pastorum dei, sit institutum; quasi prior significatio hic haberet locum. A Balsamone etiam seductus Cl. Meursius in Glossario suo scribit βοτὰ esse *festum quoddam in honorem Panis institutum.* At βοτὰ sunt hic *vota*, ut recte Interpres vertit, et Casaubonus in Spartianum docet.—[Confer. Reinesii Var. Lectiones, l. 2. c. 4. (Altenburg. 1637. p. 144.) Tit. *Vota pro salute reipublicæ, civium, principum, a Romanis concipi solita. Dies huic consuetudini certi festi. Græci βοτὰ appellarunt .... De βοτοῖς Theod. Balsamonis error, qui Pani sacrum festum fuisse putat;* &c.—Conf. Vopiscum, Vit. Taciti. (int. Aug. Hist. Scriptor. p. 911.) Nec tacendum est, et frequenter intimandum, tantam senatus lætitiam fuisse, quod eligendi principis cura ad ordinem amplissimum revertisset, ut et supplicationes decernerentur, et hecatombe promitteretur a singulis.—Vid. plura ap. Reines. ibid. (p. 145.) Cum autem ista festivitas, [nempe βοτὰ s. *vota*] ut fit, in κωμασίας, *compotationes*, et *obscœnitates* tempore vergeret, patres Concilii Constantinop. 6. an. 688, celebrati in Trullo, ... c. 62. prohibuerunt, ne quis Christianorum de cætero τὰ λεγόμενα βοτὰ agitaret, eaque ἐκ τῶν πιστῶν πολιτείας omnino tolli constituerunt. Ed.]

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Bacchus: but it may be better explained from Tertullian[8], who, among many other Heathen festivals, which some Christians were very much inclined to observe, reckons the *Brumæ*, or *Brumalia*, and objects it by way of reproach to such Christians, 'that they were not so true to their religion as the Heathens were to theirs: for the Heathens would never observe any Christian solemnity, either the Lord's-day or Pentecost, or any other: they will not communicate with us in these things; for they are afraid of being thought Christians: but we are not afraid of being thought Heathens, whilst we celebrate their *Saturnalia*, and *Januariæ*, and *Brumæ*, and *Matronales*, and mutually send presents and new year's gifts, and observe their sports and feasts.' Where by the *Brumæ* learned men[9] understand, not the feasts of Bacchus, but the festivals of the *winter-solstice*, properly called *bruma*, from which they made a conjecture, whether the remainder of winter would prove fortunate to them or not. This superstition, being a relic of old Paganism, continued in the minds of many Christians to the time of the Council of Trullo, anno 692. Which was the reason why this Council forbad it, with many other observations of the like nature, under the penalty of excommunication; which, as we have seen, was always the punishment of such crimes, except when the multitude of offenders, as St. Austin[10]

[8] De Idolol. c. 14. (p. 94 a.)... Saturnalia, et Januariæ, et Brumæ, et Matronales frequentantur, munera commeant, strenæ consonant, lusus, convivia constrepunt. O melior fides Nationum in suam sectam: quæ nullam solemnitatem Christianorum sibi vindicat, non Dominicum diem, non Pentecosten. Etiamsi nossent, nobiscum communicassent; timerent enim, ne Christiani viderentur. Nos, ne ethnici pronuntiemur, non veremur.—C. 10. (p. 91 a.) Etiam strenæ captandæ et Septimontium et Brumæ, &c.

[9] Vid. Junium in loc. (Oper. Tertull. Franequer. 1597. Notar. p. 105.) Hunc diem quoque festum celebrant, velut primum diem solaris anni: est enim bruma τροπὴ χειμερινὴ, quam posterior ætas solstitium hibernum appellavit, Columella, lib. 9. etiam brumale solstitium.—Hospinian. de Festis Ethnicorum, c. 28. p. 127. (p. 224. col. dextr.) Brumalia. *Bruma* a brevitate dierum dicta, Pompeio auctore, quasi βραχύμερον, tempus illud est, cum breviores sunt dies. Et ut ex Florentino Principe Paulus Marsus in Commentariis ad lib. 1. Ovidii Fastorum, et Merula in Comment. in Elegiam 12. lib. 3. Tristium ejusdem, indicat, ab octavo kalendarum Decembrium usque ad nonum kalendarum Jan. celebrabantur festa Brumalia. De hoc festo Cœlius, l. 15. c. 24. ex Græcorum collectaneis rei rusticæ hæc annotat: *Democritus et Apuleius talem expectari hiemem aiunt oportere, cujusmodi fuerit dies festus, quem Brumam vocant Romani: est autem quarta et vicesima Dii mensis, qui est November.*

[10] See before, ch. 3. s. 6. p. 150. n. 57, and ibid. p. 153. n. 61.

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says, made it impossible to exercise the severity of ecclesiastical discipline upon them.

Of the idolatry of worshipping angels, saints, martyrs, images, &c.

18. I take no notice here of the idolatry that might be committed in the worship of angels, or saints and martyrs, or the Virgin Mary, or images, or the eucharist, because I have had occasion before[10] to speak more at large of these in several parts of this work. And it will be sufficient here only to observe in general, that none but professed heretics were ever accused of this sort of idolatry in the primitive ages, such as the *Angelici*, for worshipping *angels*, and the Simonians and Carpocratians for worshipping images, and the Collyridians for worshipping the Virgin Mary: and these being heretics by profession, there is no question but that the censures of the Church were inflicted on them, and all such as adhered to or went over to them; which is sufficient to remark here for explaining and confirming the exercise of discipline in the Church.

Of encouragers of idolatry and connivers at it.

19. There is but one thing more to be noted concerning the practice of idolatry, which is, that all favourers and encouragers of idolatry were equally reputed guilty of the crime with idolaters themselves, as partaking in their sin. If a master sent his servant to sacrifice for him, the act was the servant's, but the guilt rebounded on the master's head, as the principal author of it, as we have seen before in the case of the *libellatici*, who employed their servants to sacrifice for them. If a judge, who was obliged by his office to extirpate idolatry, when the laws gave him authority and power to do it, did either publicly neglect his duty, or secretly connive at the practice of idolaters, he was reputed guilty of the crime by participation. Thus St. Austin[11] charges the magistrates of a certain city, as criminals in this respect, 'that when the laws had empowered them to root out all the remainders of idolatry, they were negligent and remiss in putting them in execution:' though the laws themselves, to which he refers[12], had laid a penalty of twenty pounds in gold upon any judge, or officer belonging to

[10] See b. 8. ch. 8. v. 3. p. 147., and b. 13. ch. 3. v. 4. p. 324.

[11] Ep. 202. See before, s. 17. p. 228. n. 99.

[12] Cod. Theod. l. 16. tit. 10. de Paganis, leg. 19. (t. 6. p. 288.) Judices autem viginti librarium auri pœna contringimus, et pari forma officia eorum, si hæc eorum fuerint dissimulatione neglecta.

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him, if by any dissimulation of theirs the force of the law, prohibiting Heathen festivals, was fraudulently evaded.

So before idolatry was forbidden by the imperial laws, whilst under the countenance of Heathen emperors it rode triumphant, Christians were obliged not only to abstain from sacrificing themselves, but to lend no helping hand by their authority to the sacrifices; not to make a trade of selling victims; not to be guardians or curators of any temples, or collectors of their revenues; not to exhibit the public games and shows, either at their own expense or the expense of the public, or so much as preside in them when they were acted; not to use any of their solemn words or forms peculiar to idolatrous worship, nor to swear by the names of their gods: all which Tertullian remarks and puts together in one place [13], giving this as a reason why a Christian under an Heathen government could not safely take upon him the office of a judge; because that post would oblige him to countenance idolatry, either by his authority or some other of those ways, which he could not do without injuring his conscience and doing violence to the laws of his own religion, which do not allow a man to help forward the practice of idolatry in others. And for this reason the Council of Eliberis made an order [14], 'that no possessors or landlords should allow of any thing that was brought in their accounts by their managers or tenants as given to an idol, under the penalty of five years' suspension from the communion.' And in another canon [15], they order 'all masters to prohibit their servants from retaining any idols in their houses, as far as lay in their power; or if they could not do this in times of persecution for fear their servants should use some violence towards them, (that is, inform against them or betray

[13] De Idolol. c. 17. (p. 96 b.) ... Neque sacrificet, neque sacrificiis auctoritatem suam accommodet, non hostias locet, non curas templorum deleget, non vectigalia eorum procuret, non spectacula edat de suo aut de publico, aut edendis præsit: nihil solemne pronuntiet vel edicat, ne juret quidem.

[14] C. 40. (t. 1. p. 975 a.) Prohiberi placuit, ut cum rationes suas accipiunt possessores, quicquid ad idolum datum fuerit, acceptum non referant; si post interdictum fecerint, per quinquennii spatia temporum a communione esse arcendos.

[15] C. 41. (ibid. b.) Admoneri placuit fideles, ut in quantum possint, prohibeant, ne idola in domibus suis habeant. Si vero vim metuunt servorum, vel seipsos puros conservent; si non fecerint, alieni ab ecclesia habeantur.

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them,) they should at least keep themselves pure, or otherwise be cast out of the Church.' In times of peace they were to carry their power a little further: for, by a rule of the second Council of Arles [16], after laws were made by the State to prohibit and root out idolatry, every presbyter within his own territory or district was to prosecute all infidels that still continued to light torches to idols, or worship trees, or fountains, or stones, under the penalty of being himself reputed guilty of sacrilege if he neglected so to do. And every lord or governor of the place, who upon admonition should refuse to correct such errors in those under his command, was to be deprived of the communion. By another canon of the Council of Eliberis [17], 'all persons, both men and women, are prohibited to lend any Heathen their clothes and apparel to set off the secular pomp under the penalty of three years' suspension from the communion.' Where by *the secular pomp* it is most reasonable to understand the idolatrous ceremonies of the Heathen on their public festivals. But there is one case peculiarly guarded against in that Council, because many well-meaning Christians in a mistaken zeal against idolatry were apt to run in a contrary extreme, and think themselves obliged to break and deface idols wherever they found them: to correct which error the Council [18] was forced to make another decree to forbid this unwarrantable practice, and to order, 'that if any one was slain in such a fact, he should not be enrolled in the catalogue of martyrs: because the Gospel gives no such command, neither do we find it ever practised by the Apostles.' This observation of the Council concerning the practice of the Apostles seems to be very just. For whatever zeal they had against idolatry, we never read that they went in a tumultuous way into the Heathen temples to demolish their idols; but rather the con-

[16] C. 23. (t. 4. p. 1013 e.) Si in alicujus presbyteri territorio infideles aut faculas accenderint [al. accendunt], aut arbores, fontes, vel saxa venerentur: si hæc eruere neglexerit, sacrilegii se esse reum cognoscat. Dominus autem vel ordinator rei ipsius, si admonitus emendare noluerit, communione privetur.

[17] C. 57. (t. 1. p. 976 e.) Matronæ vel eorum mariti vestimenta sua ad ornandam sæculariter pompam non dent. Et si fecerint, triennii tempore [al. triennio] abstineant.

[18] Ibid. c. 60. (p. 977 a.) Si quis idola fregerit, et ibidem fuerit occisus, quoniam [al. quatenus] in Evangelio non est scriptum, neque invenitur ab Apostolis unquam factum, placuit in numerum eum non recipi martyrum.

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trary character is given them by the testimony of the very Heathen. Of which we have an illustrious instance in the apology which the town-clerk of Ephesus made for Paul and his companions, when they were accused by Demetrius and the craftsmen who made silver shrines for Diana, as if they had done violence to her temple, and to the image which fell down from Jupiter: "Ye have brought hither these men," says he, "which are neither robbers of churches, nor yet blasphemers of your goddess." (Acts 19, 37.)

It is true indeed, Eulalia the martyr had done some such thing not long before in Spain: but the Council would not have her action, which might be done by a peculiar impulse of the Spirit, drawn into example; because it was an unnecessary provocation of the Heathen and prejudicial to the Church, without any warrant from Scripture; which bids men confess Christ when they are called to do it, but not to provoke the enemy by an imprudent zeal when there is no just reason for it. And this is what Cyprian before them had always taught his people, both by his preaching and his writing [19], 'that they should raise no tumults, nor offer themselves of their own accord to the Gentiles; but when they were apprehended and delivered up to the magistrate, then to speak what the Lord put into their hearts in that hour, who would have us to confess him when called to do it, but not rashly put ourselves upon it.'

Thus the Ancients in this matter of idolatry, the great crime of that age, steered their discipline with an even course, keeping a just medium between two extremes; neither allowing any sinful compliance or communication with it, nor encouraging any indiscreet and over-zealous opposition to it. And if Tertullian in the former case has stretched the matter a little too far; as when he determines it to be a species and smatch of idolatry for a schoolmaster to teach the names of the Heathen gods to his scholars, or for a Christian to

[19] Ep. 81. [al. 83.] p. 239. (p. 334.) Vos autem, fratres carissimi, pro disciplina, quam de mandatis Dominicis a me semper accepistis, et secundum quod me tranctante sæpissime didicistis, quietem et tranquillitatem tenete: ne quisquam vestrum aliquem tumultum de fratribus moveat, aut ultro se Gentilibus offerat: apprehensus enim et traditus loqui debet; siquidem in nobis Dominus positus in illa hora loquatur, qui nos confiteri magis voluit, quam [temere] profiteri.

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bear arms, or fly in time of persecution; it is easy to account for these singularities, knowing out of what school they came, and that they were not the dictates of the Spirit of Christ, but the spirit of Montanus: and it is a sufficient answer to any such pretences, that we meet with no such dogmatical assertions in purer writers, nor any such rules in ecclesiastical discipline, nor any such overbearing custom in the Church of God.

I have been the more curious in stating the sense of the Ancients upon these several questions, both because they are useful to explain the discipline of the Church, and also because they may have their use when applied to other cases: and it is not very common to find the subject of idolatry treated of in this way by modern authors.

CHAP. V.

Of the practice of curious and forbidden arts, divination, magic, and enchantment: and of the laws of the Church made for the punishment of them.

Of the several sorts of divination, particularly of astrology.

1. Another great crime against religion was the practice of curious and forbidden arts, which are almost innumerable, from the great and various inclination of men to superstition. I shall sum them up under three general names, divination, magic, and enchantment. Divination comprehends all the arts and ways of discovering secrets, or foretelling future events, not knowable by any rules of nature; magic, all the arts of mischievous operations by secret and unknown means, which is commonly called sorcery, and by the Latins *veneficium* and *maleficium*, from *poisoning* and *doing mischief;* enchantment chiefly relates to a pretended skill and power of doing good, as of curing diseases by certain charms, and words, and signs, and amulets, which has made it the more agreeable to weak and superstitious persons, because it has a pretence and show of being useful and beneficial to mankind.

Among the several species of divination, one of the most noted and infamous was that of astrology, or the pretence of discovering secrets by the position and motion of the stars. Men who professed this art are commonly called *mathematici, drawers of schemes and calculations;* under which name they

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are condemned in both the Codes[20]. And they were infamous not only under the Christian administration, but also under the old Romans. For there is a law of Diocletian in the Justinian Code[21], which allows the art of geometry as an useful science, but forbids the *ars mathematica, the astrologer's art*, as a damnable practice. And Tacitus[22] says, 'there were decrees of the senate made in the reign of Tiberius for expelling all the astrologers and magicians out of Italy:' but he likewise observes[23], 'that they were a sort of men, which were always forbidden, and yet always retained. For though they were deceitful and fallacious to great men, yet they still had an inclination now and then upon occasion to consult them.' Their expulsion out of Italy is also noted by Suetonius[24], as done twice, in the reigns of Tiberius and Vitellius. Upon which Tertullian[25], in a smart and elegant way, tells some Christians, who pleaded for a toleration of themselves in the profession of this wicked art, 'that astrologers were expelled out of Italy and Rome as their angels were out of heaven: the same penalty of banishment was inflicted on the scholars, as had been on their masters before them. Now then the laws of the State, both Heathen and Christian, being thus severe against them, it was but reasonable that the censures of the Church should be as sharp upon them, because they were a species of idolaters, and owed the original of their art to the invention of wicked angels.' For this reason the Constitutions[26] put astrologers into the black list of such as were to be

[20] Cod. Theod. l. 9. tit. 16. de Maleficis et Mathematicis. (t. 3. pp. 113, seqq.)

[21] L. 9. tit. 18. de Maleficis et Mathematicis, leg. 2. (t. 4. p. 2373.) Artem geometriæ discere atque exercere publice interest. Ars autem mathematica damnabilis est et interdicta omnino.

[22] Annal. l. 2. c. 32. (t. 1. p. 156.) Facta et de mathematicis magisque Italia pellendis senatus consulta; quorum e numero Pituanius saxo dejectus est.

[23] Hist. l. 1. c. 22. (t. 2. p. 32.) .... Genus hominum potentibus infidum, sperantibus fallax, quod in civitate nostra et vetabitur semper, et retinebitur.

[24] Vit. Tiber. c. 36. (p. 143.) Expulit et mathematicos: sed deprecantibus, ac se artem desituros promittentibus, veniam dedit. — Vit. Vitell. c. 14. (p. 299.) Nullis tamen infensior quam vernaculis et mathematicis, ut quisque deferretur, inauditum capite puniebat: exacerbatus, quod post edictum suum, quo jubebat, intra kalendas Octobris urbe Italiaque mathematici excederent, statim libellus est propositus, et Chaldæos dicere [al. edicere], &c.

[25] De Idolol. c. 9. (p. 89 d.) Urbs et Italia interdicitur mathematicis, sicut cœlum angelis eorum, eadem pœna est exsilii discipulis et magistris.

[26] L. 8. c. 32. (Cotel. v. 1. p. 413.)

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rejected from baptism, unless they would promise to renounce their profession. The first Council of Toledo[27] condemns the Priscillianists with *anathema* for the practice of it. For we must know, that the Priscillianists ascribed all to fate and the necessary influence of the stars, as St. Austin[28] informs us: 'They asserted that men were bound to fatal stars, and that our bodies were compounded according to the order of the twelve signs of the Zodiac, as they who are commonly called *mathematici*, or *astrologers*, maintain, appointing Aries for the head, Taurus for the neck, Gemini for the shoulders, Cancer for the breast, and so running through the other signs, till they came to the feet, which they attributed to Pisces, which is the last sign in the astrologer's computation.' Leo in one of his Epistles[29] gives the same account of them: 'They maintained that the bodies and souls of men were bound to fatal stars, by which folly men were embarrassed in the errors of the Pagans, and obliged to worship those stars that were favourable to them, and appease those that were against them: but they who followed such vanities could have no place in the Catholic Church: for he that gives himself to such persuasions, is wholly departed from the body of Christ.' Sozomen[30] says, Eusebius, bishop of Emesa, was accused of the practice of this art, and forced to fly from his bishopric upon it. He gives it indeed another name, calling it *apotelesmatical astronomy:* but that[31] signifies the same thing: for there

Μάγος, ἐπαοιδός, ἀστρολόγος, μάντις, θηρεπῳδός . . . παυσάμενοι . . . προσδεχέσθωσαν, μὴ πειθόμενοι δὲ ἀποβαλλέσθωσαν.

[27] In Regula Fidei contra Priscillianistas. (t. 2. p. 1228 d.) Si quis astrologiæ vel mathesi existimat esse credendum anathema sit.

[28] De Hæres. c. 70. (t. 8. p. 22 e.) Astruunt etiam fatalibus stellis homines colligatos, ipsumque corpus nostrum secundum duodecim signa cœli esse compositum, sicut hi, qui mathematici vulgo appellantur; constituentes in capite arietem, taurum in cervice, geminos in humeris, cancrum in pectore; et cætera nominatim signa percurrentes ad plantas usque perveniunt, quas piscibus tribuunt, quod ultimum signum ab astrologis nuncupatur.

[29] Ep. 91. al. 93. ad Turibium, c. 11. (CC. t. 3. p. 1414 c.) Fatalibus stellis et animas hominum, et corpora opinantur astringi: per quam amentiam necesse est ut homines Paganorum erroribus implicati, et faventia sibi, ut putant, sidera colere, et adversantia studeant mitigare. Verum ista sectantibus nullus in ecclesia Catholica locus est: quoniam, qui se talibus persuasionibus dedit, a Christi corpore totus abscessit.

[30] L. 3. c. 6. (v. 2. p. 99. 40.) *Διεβάλλετο γὰρ ἀσκεῖσθαι τῆς ἀστρονομίας, ὁ μέρος ἀποτελεσματικὸν καλοῦσι, φυγὰς ἦλθεν εἰς Λαοδίκειαν, κ. τ. λ.*

[31] Justin Martyr speaks of the *telesmata* of Apollonius. See Respons. ad Orthodox. (p. 405 a.) El

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were two parts of astronomy, the one teaching the nature and course of the stars, which was a lawful art; and the other the secret effects and powers of them in their oppositions, conjunctions, &c.; which effects were called their *apotelesmata,* and the art itself *apotelesmatica,* and the practisers of it anciently *apotelesmatici,* as afterwards *mathematici* and *Chaldæi.* Some[32] think also these *apotelesmata* were little figures and images of wax, made by magical art to receive the influence of the stars, and used as helps in divination. So that the apotelesmatical art was the same in all respects with judicial astrology. And therefore Eusebius Emissenus was condemned for the practice of it, as an unlawful art, utterly unbecoming the character of a Christian bishop. For by the account that has been given, it is plain that all such kind of divination was looked upon as idolatry and Paganism, as owing its original to wicked spirits, and as introducing an absolute fate and necessity upon human actions, and so taking away all freedom from human will, and making God the author of sin: which blasphemies are commonly charged upon this art by the Ancients, St. Austin[33], Lactantius[34], Tertullian[35], Eusebius[36], Origen[37],

Θεὸς ἐστιν Δημιουργὸς καὶ Δεσπότης τῆς κτίσεως, πῶς τὰ Ἀπολλωνίου τελέσματα ἐν τοῖς μέρεσι τῆς κτίσεως δύνανται;

[32] Selden, de Diis Syriis, Syntagm. 1. c. 2. p. 116. (t. 1. v. 2. p. 288.) [The citation is not explicit, but the learned Author seems to refer to Selden's remarks on the *talisman* of the Arabians, &c.: Certe eadem ipsa *τὰ τοῦ Ἀπολλωνίου τελέσματα* vocantur in Responsis ad Orthodoxos, quæ Justini nuncupantur. See n. 31, preceding.—See also (p. 285.) what Selden says of the *sigillum illud ligneum,* which Apuleius used to call *βασιλεύς.* Ed.]—Spencer, Dissert. 7. de Urim et Thummim, l. 3. c. 3. s. 10. p. 369. (t. 2. p. 965.) Minus itaque a vero distare credimus eorum sententiam, qui imagines hasce futurorum conscias ab antiquissimæ memoriæ populis, Chaldæis, Syris, Ægyptiis, inventas aut usitatas asserunt. Maimonides enim imagines istas oracula fundentes apud nominis antiquissimi gentes, Zabios aut Chaldæos, fidem et pretium invenisse refert: *Erexerunt stellis imagines, soli quidem aureas, lunæ vero argenteas. Deinde sacella ædificaverunt, imaginesque in illis collocarunt, arbitrantes stellarum vires influere in illas imagines, easque intelligendi virtutem habere, hominibus prophetiæ donum largiri, ac denique, quæ ipsis utilia et salutaria sunt, indicare.*

[33] De Civitat. Dei, l. 5. c. 1. (t. 7. p. 115 b.) Illi vero, qui positionem stellarum, quodammodo decernentium qualis quisque sit, et quid ei proveniat boni, quidve mali accidat, ex Dei voluntate suspendunt, si easdem stellas putant habere hanc potestatem traditam sibi a summa illius potestate, ut volentes ista decernant; magnam cœlo faciunt injuriam, in cujus velut clarissimo senatu ac splendidissima curia opinantur scelera facienda decerni; qualia si aliqua terrena civitas decrevisset, genere humano decernente fuerat evertenda.—De Doctrin. Christian. l. 2. c. 21. (t. 3. part. 1. p. 32 b.) Neque illi ab hoc genere

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and Bardesanes Syrus[38], who wrote particular dissertations against it, mentioned by Eusebius, who gives some extracts out of them.

We may note further out of St. Austin[39], that these astrologers had sometimes the name of *genethliaci*, from pretending to *calculate men's nativities* by erecting schemes and horoscopes, as they called them, to know what position the stars were in at their birth, and thence prognosticate their good or bad fortune, or any accidents of their life, by the conjunction of the stars they were born under. And because some of these pretended to determine positively of the lives and deaths of kings, which was reputed a very dangerous piece of treason; therefore the laws of the State were more severe against them, even under the Heathen emperors, as Gothofred[40] shows out of the ancient lawyers, Ulpian and Paulus: and that was another reason why the Church thought it proper to animadvert upon these with the utmost severity of ecclesiastical censures; as thinking that what the Heathen laws had punished as a capital crime, ought not to pass unregarded in the discipline of the Christian Church. It was this crime that expelled Aquila

perniciosæ superstitiones segregandi sunt, qui *genethliaci* propter natalium dierum considerationes, nunc autem vulgo *mathematici*, vocantur. Nam et ipsi quamvis veram stellarum positionem, cum quisque nascitur, consectentur, et aliquando etiam pervestigent: tamen quod inde conantur vel actiones nostras, vel actionum eventa prædicere, nimis errant, et vendunt imperitis hominibus miserabilem servitutem.

[34] Institut. l. 2. c. 16. [al. 17.] (t. 1. p. 179.) Eorum [dæmonum] inventa sunt astrologia, et haruspicina, et auguratio, et ipsa, quæ dicuntur, oracula, et necromantia, et ars magica, &c.

[35] De Idolol. c. 9. (p. 89 c.) Animadvertimus inter artes, etiam professiones quasdam obnoxias idololatriæ. De astrologis ne loquendum quidem est. Sed quoniam quidam istis diebus provocavit, defendens sibi perseverantiam professionis istius, paucis utar. Non allego, quod idola honorat, quorum nomina cœlo inscripsit, quibus omnem Dei potestatem addixit: quod propterea homines non putant Deum requirendum, præsumentes stellarum nos immutabili arbitrio agi. Unum propono, angelos esse illos desertores Dei, amatores fœminarum, proditores etiam hujus curiositatis, propterea quoque damnatos a Deo, &c.

[36] De Præparat. Evangel. l. 6. cc. 10, 11. tota. (pp. 273 b, seqq., et pp. 281 a, seqq.)

[37] Ap. Euseb. de Præparat. Evangel. ubi supr.

[38] Ap. Euseb. ibid.

[39] De Doctrin. Christian. l. 2. c. 21. See before, n. 33, preceding.

[40] In Cod. Theod. l. 9. tit. 16. de Maleficis et Mathematicis, leg. 2. (t. 3. p. 116. col. dextr.) Sane Ulpianus quoque apud auctorem *Collationis legum Mosaicarum*, eos, qui de principis salute consuluissent, capite punitos, vel qua alia graviore pœna affectos scribit. Sed et Paulus, 5. Sentent. tit. 21. aruspices et cæteros, qui de salute principis et summa reipublicæ responderint, una cum eo, qui consuluerit, capite puniri.

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from the Church. For Epiphanius[41] says, 'he was once a Christian; but being incorrigibly bent upon the practice of astrology, the Church cast him out: and then he became a Jew, and in revenge set upon a new translation of the Bible, to corrupt those texts, which had any relation to the coming of Christ.' St. Austin[42] gives a famous instance of an astrologer, who being excommunicated for his crimes afterwards became a penitent, and was reconciled to the Church by his ministerial absolution. The sum of his crime was this: 'He taught the fatal influence of the stars, that it was Venus that made a man commit adultery, and not his own will; and that it was Mars, and not his own will, that made him commit murder: and that if any man was righteous, it was not from God, but from the influence of Jupiter, a star so called in the heavens. And by this art he had defrauded many people of their money; but at last he became a convert, and upon his confession and re-

[41] De Mensur. et Ponder. n. 15. (t. 2. p. 171 b.) Ὁ οὖν Ἀκύλας κατανυγεὶς τὴν διάνοιαν τῷ Χριστιανισμῷ ἐπίστευσεν· αἰτήσας δὲ μετὰ χρόνον τὴν ἐν Χριστῷ σφραγίδα, ἐκομίσατο. Ἀπὸ δὲ τῆς πρώτης αὐτοῦ ἕξεως μὴ μεταθέμενος, τοῦ πιστεύειν δηλονότι τῇ ματαίᾳ ἀστρονομίᾳ, ἣν ἀκριβῶς ἐκπεπαίδευτο, ἀλλὰ καθ' ἑκάστην ἡμέραν τὸ θέμα τῆς αὐτοῦ γενέσεως σκεπτόμενος, ἐλεγχόμενός τε ὑπὸ τῶν διδασκάλων, καὶ ἐπιτιμώμενος ἕνεκα τούτου, μὴ διορθούμενος δὲ, ἀλλὰ καὶ φιλονείκως μᾶλλον ἀντιτιθέμενος, καὶ σπεύδων συνιστᾷν τὰ ἀσύστατα, τὴν εἱρμαρμένην δηλονότι, καὶ τὰ περὶ αὐτῆς διηγήματα, ἐξεώθη πάλιν τῆς ἐκκλησίας, ὡς ἄχρηστος πρὸς σωτηρίαν. Πικρανθεὶς δὲ τὴν διάνοιαν, ὡς ἠτιμωμένος, εἰς ζῆλον μάταιον αἵρεται· καὶ, τὸν Χριστιανισμὸν ἀρνησάμενος καὶ τὴν αὐτοῦ ζωὴν, προσηλυτεύει καὶ περιτέμνεται Ἰουδαῖος, καὶ ἐπιπόνως φιλοτιμησάμενος ἐξέδωκεν ἑαυτὸν μαθεῖν τὴν Ἑβραίων διάλεκτον, καὶ τὰ αὐτῶν στοιχεῖα· ταύτην δὲ ἀκρότατα παιδευθεὶς ἡρμήνευσεν, οὐκ ὀρθῷ λογισμῷ χρησάμενος, ἀλλ' ὅπως διαστρέψῃ τινὰ τῶν ῥητῶν, ἐνσκήψας τὴν τῶν Ἑβδομήκοντα δύο ἑρμηνείᾳ· ἵνα τὰ περὶ Χριστοῦ ἐν ταῖς Γραφαῖς μεμαρτυρημένα ἄλλως ἐκδώσει, δι' ἣν εἶχεν αἰδῶ, εἰς ἄλογον αὐτοῦ ἀπολογίαν.

[42] De Mathematico, ad calc. Tractat. in Ps. 61. (t. 4. p. 605 d.)..... Iste ex Christiano et fideli pœnitens redit, et territus potestate Domini convertitur ad misericordiam Domini. Seductus enim ab inimico, cum esset fidelis, diu mathematicus fuit: seductus seducens, deceptus decipiens, illexit, fefellit, multa mendacia locutus est contra Deum, qui dedit hominibus potestatem faciendi quod bonum est, et non faciendi quod malum est. Iste dicebat, quia adulterium non faciebat voluntas propria, sed Venus: homicidium non faciebat voluntas propria, sed Mars: et justum non faciebat Deus, sed Jovis [leg. Jupiter]: et alia multa sacrilega non parva. Quam multis eum putatis Christianis nummos abstulisse? .... Modo, sicut de illo credendum est, horruit mendacium, et multorum hominum illectorem: se aliquando a Diabolo senait illectum, convertitur ad Deum pœnitens. Putamus, fratres, de magno timore cordis accidisse. Quid enim dicturi sumus? Namque si ex pagano converteretur mathematicus, magnum quidem esset gaudium: sed tamen posset videri, quia si conversus esset, clericatum quæreret in ecclesia? Pœnitens est, non quærit nisi solam misericordiam.

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pentance was received into the Church again to lay-communion, but for ever denied all promotion among the clergy.' By which one instance we may judge of the greatness of the crime, and the proceedings of the Church against such offenders.

Of augury and soothsaying.

2. Another sort of divination was that which was called *augury* and *soothsaying*. Which was committed several ways. Sometimes by observing several signs and appearances in the entrails of the sacrifices, which was properly called *haruspicina* and *haruspicium*. Sometimes by observations made upon the motion, or flying or singing of birds, which was called *augury*, in the strictest sense. Sometimes by remarks made upon the voice of men, or their sneezing, which was called *an omen*, and the thing reputed ominous. Sometimes by observing certain signs in the figure and lineaments of the body; as in the hands, which was called *chiromancy;* or in the face and forehead, which was called *μετωποσκοπία*, or *physiognomy;* or in the back, called *νωτομαντεία*, with many other observations of the like nature. The old Romans were much given to these superstitions, insomuch that they had their colleges of augurs, and would neither fight, nor make war or peace, or do any thing of moment without consulting them. The squeaking of a rat was sometimes the occasion of dissolving a senate, or making a consul or a dictator lay down his office [43], as begun with an ill omen. Now, though Christianity was a professed enemy to all such vanities; yet the remains of such superstition continued in the hearts of many after their conversion. So that the Church was forced to make severe laws to restrain them. The Council of Eliberis [44] makes the renunciation of this art a condition of baptism, if an augur had a mind to be baptized: and if afterward he returned to the practice of it, he was to be cast out of the Church. Which is also the rule in the Apostolical Constitutions [45], and the Councils of Agde [46],

[43] Vid. Valer. Max. l. 1. c. 3. (Antwerp. 1621. c. 1. s. 5. p. 4.) Occentus autem soricis auditus Fabio Maximo dictaturam, Caio Flaminio magisterium equitum deponendi causam præbuit.

[44] C. 62. (t. 1. p. 977 b.) Si augur aut pantomimi [al. auriga et pantomimus] credere voluerint, placuit, ut prius artibus [al. actibus] suis renuntient, et tunc demum suscipiantur, ita ut ulterius non revertantur. Quod si facere contra interdictum tentaverint, projiciantur ab ecclesia.

[45] L. 8. c. 32. See before, ch. 5. s. 1. n. 26, preceding.

[46] C. 42. See afterwards, n. 51, following.

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Vannes[47], Orleans[48], and several others. The Constitutions[49] not only censure astrologers, magicians, and enchanters, but also wandering fortune-tellers, augurs, and soothsayers, observers of signs and omens, interpreters of palpitations, observers of accidents in meeting others, and making divination upon them, as upon a blemish in the eye, or in the foot, observers of the motion of birds or weasels, observers of voices, and symbolical sounds.

Of divination by lots.

3. And it is observable, that in the French Councils last mentioned there is a peculiar sort of augury condemned under the name of *sortes sacræ*, divination by *holy lots*. Which was a piece of new superstition grafted upon an old stock, and introduced with a more specious show in the room of an Heathen practice. For the Heathens were used to divine by a sort of lots, which they called *Sortes Virgilianæ:* which was done by a casual opening of the book of Virgil, and then the first verses that appeared were taken and interpreted into an oracle. Thus Spartian[50] says, Hadrian had the empire prognosticated to him 'by drawing his lots out of Virgil: for the first words that appeared, *missus in imperium magnum*, portended that he should become the Roman emperor.' And so Lampridius[51], in the Life of Alexander Severus, says, 'that emperor also understood by this sort of divining-lots out of another verse of

[47] C. 16. See afterwards, n. 52, following.

[48] Aurelian. 1. c. 32. See afterwards, n. 53, following.

[49] [L. 8. c. 38. See b. 11. ch. 5. s. 8. v. 4. p. 88, where the canon is cited at length. Ed.]

[50] Vit. Hadrian. c. 2. p. 5. (int. August. Hist. Scriptor. p. 9.) Quo quidem tempore, cum solicitus de imperatoris erga se judicio Virgilianas Sortes consuleret,

Quis procul ille autem ramis insignis olivæ,
Sacra ferens? nosco crines incanaque menta
Regis Romani; primus qui legibus urbem
Fundabit, Curibus parvis et paupere terra,
Missus in imperium magnum. Cui deinde subibit,

sors excidit, quam alii ex Sibyllinis versibus ei provenisse dixerunt.

[51] Vit. Alexand. c. 14. p. 341. (ibid. p. 521.) Ipse autem, cum parentis hortatu animum a philosophia et musica ad alias artes traduceret, Virgilii Sortibus hujusmodi illustratus est:

Excudent alii spirantia mollius æra,
Credo equidem, vivos ducent de marmore vultus;
Orabunt causas melius, cœlique meatus
Describent radio, et surgentia sidera ducent [al. dicent]:
Tu regere imperio populos, Romane, memento;
Hæ tibi erunt artes, pacisque imponere morem,
Parcere subjectis, et debellare superbos.

Inerunt multa alia signa, quibus principem humani generis esse constaret.

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Virgil, that he should obtain the government of the Roman empire.' Now many superstitious Christians were of opinion, that this sort of divination might be much better made by using the Holy Scriptures after the same manner, and to the same purpose: and therefore as the Heathen used Virgil, so they used the Bible, to learn their fortune by *sacred lots*, as they called them, taking the first passage that presented itself, to make their divination and conjecture upon: and it appears that some of the inferior clergy, out of a base spirit, and love of filthy lucre, encouraged this practice, and made a trade of it in the French Church. Whence the Gallican Councils are very frequent in the condemnation of it. The Council of Agde [51] takes notice, 'that some of the clergy and laity followed after soothsaying, to the great detriment of the Catholic religion: and under the name of feigned religion, professed the art of divination, by what they called the lots of the saints, making use of a casual inspection of the Scriptures to divine futurities by.' It is decreed therefore, 'that whoever of the clergy or laity should be detected in the practice of this art, either as consulting or teaching it, should be cast out of the communion of the Church.' This had been decreed about sixty years before in the Council of Vannes [52], anno 465, in the very same words. And the first Council of Orleans [53], about five years after the Council of Agde, repeats the decree with a very little variation. But the practice continued for all this: for Gregory of Tours [54] says, Kramnus, the son of King Clotharius, con-

[51] C. 42. (t. 4. p. 1390 c.) Quod maxime fidem Catholicæ religionis infestat, [quod] aliquanti clerici sive laici student auguriis, et sub nomine fictæ religionis per eas, quas sanctorum sortes vocant, divinationis scientiam profitentur, aut quarumcunque Scripturarum inspectione futura promittunt. Hoc quicunque clericus vel laicus detectus fuerit vel consulere vel docere, ab ecclesia habeatur extraneus.

[52] C. 16. (ibid. p. 1054 b.) Ac ne id fortasse videatur omissum, quod maxime fidem Catholicæ religionis infestat, &c. In the same words as the foregoing canon.

[53] C. 32. (ibid. p. 1409 b.) Si quis clericus, monachus, vel sæcularis divinationem vel auguria crediderit observanda, vel sortes, quas mentiuntur esse sanctorum, quibuscunque putaverint intimandas, cum his, qui eis crediderint, ab ecclesiæ communione pellantur.

[54] Hist. Francor. l. 4. c. 16. (p. 157 c. 4.) Positis clerici tribus libris super altarium, id est, Prophetiæ, Apostoli, atque Evangeliorum, oraverunt ad Dominum, ut Chramno quid eveniret ostenderet: simulque unam habentes conniventiam, ut unusquisque in libro quod primum aperiebat, hoc ad missas etiam legeret. Aperto ergo primo omnium Prophetarum libro, reperiunt, *Auferam maceriem ejus, &c.* (Esai. 5, 5.) Reseratoque Apostoli libro, inveniunt, *Ipsi enim diligenter scitis, fratres, quia dies Domini sicut fur*

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sulted the clergy of Dijon upon some points, and they gave him an answer by this sort of divination.

Some reckon St. Austin's conversion owing to such a sort of consultation: but the thought is a great mistake, and very injurious to him, for his conversion was owing to a providential call, like that of St. Paul from heaven. He says[55] he heard a voice he knew not whence, saying, *Tolle, lege! Tolle, lege! Take up the Bible and read!* which he did, and the first words he chanced to cast his eye upon were those of St. Paul, (Rom. 13, 13 and 14,) "Let us walk honestly as in the day; not in rioting and drunkenness, not in chambering and wantonness, not in strife and envying: but put ye on the Lord Jesus Christ, and make not provision for the flesh to fulfil the lusts thereof." Which words being apposite to his case, he looked upon them as spoken directly to himself, and accordingly applied them to his own condition: and so by God's providence they became the means of fixing him in that piety, purity, and sobriety, for which he was afterwards so famous in the world. Here was nothing of divination in all this; but a seasonable application of a proper passage to himself, as he says St. Anthony had made of those words of our Saviour, "Go, sell all that thou hast, and give to the poor, and thou shalt have treasure in heaven, and come follow me!" [Matth. 19, 21. Luke 18, 22.] which he took as an oracle spoken immediately

in nocte veniet, &c. (1 Thess. 5, 2 et 3.) Dominus autem per Evangelia ait, *Qui non audit verba mea, assimilabitur viro stulto, &c.* (Matt. 7, 26.)

[55] Confess. l. 8. c. 12. (t. 1. p. 156 a.) Ego sub quadam fici arbore stravi me, nescio quomodo, et dimisi habenas lacrimis, et proruperunt flumina oculorum meorum.... (b) Et ecce audio vocem de vicina domo cum cantu dicentis et crebro repetentis, quasi pueri an puellæ, nescio, *Tolle, lege! Tolle, lege!* Statimque mutato vultu intentissimus cogitare cœpi, utrumnam solerent pueri in aliquo genere ludendi cantitare tale aliquid; nec occurrebat omnino audivisse me uspiam. Repressoque impetu lacrimarum surrexi, nihil aliud interpretans nisi divinitus mihi juberi, ut aperirem codicem, et legerem quod primum caput invenissem.... (d) Itaque concitus redii ad eum locum, ubi sedebat Alypius: ibi enim posueram codicem Apostoli, cum inde surrexeram. Arripui, aperui, et legi in silentio capitulum, quo primum conjecti sunt oculi mei: *Non in comessationibus et ebrietatibus, non in cubilibus et impudicitiis, non in contentione et æmulatione: sed induite Dominum Jesum Christum, et carnis providentiam ne feceritis in concupiscentiis.* (Rom. 12, 13 et 14.) Nec ultra volui legere, nec opus erat. Statim quippe cum fine hujusce sententiæ, quasi luce securitatis infusa cordi meo, omnes dubitationes tenebræ diffugerunt.

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to himself, and they were the occasion of his turning to the Lord. As to any other use of the Scripture for divination, St. Austin was an enemy to it, and expresses himself against it, reflecting on some who used it to that purpose. 'As for those,' says he [56], 'who divine by lots out of the Gospel, though it be more desirable they should do this, than run to ask counsel of devils; yet I am displeased at this custom, which turns the divine oracles which speak of things belonging to another life, to the business of this world, and the vanities of the present life.' By which it is plain, he looked upon this sort of divination as a great abuse of the Gospel, though not so bad as going directly to consult devils.

As for those, which are commonly called *divisory lots*, there is no harm in them when applied to things in our own power; as to dividing of lands by lot, or determining in an army who shall first invade the enemy; or, in time of a plague or persecution, what ministers shall stay in a city to take care of the Church; which is a case particularly mentioned by St. Austin [57], and allowed as lawful. So a prince may distribute his punishments by lot, when he is minded to spare some criminals and punish others. And when there are two objects of charity in equal circumstances, and we cannot relieve both, St. Austin [58] thinks there is no harm in casting lots to determine which of them shall have our charity. And there are many other indifferent cases of the like nature, in which lots may be used without any prejudice to religion. And therefore the Church never made any laws to forbid or censure them, save only in disposing of ecclesiastical offices, and the lives of men, which are too sacred to be committed to mere chance or lots without

[56] Ep. 119. [al. 55.] ad Januar. c. 20. (t. 2. p. 143 c.) Hi vero qui de paginis evangelicis sortes legunt, etsi optandum est, ut hoc potius faciant, quam ut ad dæmonia consulenda concurrant, tamen etiam ista mihi displicet consuetudo, ad negotia sæcularia et ad vitæ hujus vanitatem, propter aliam vitam loquentia, oracula divina velle convertere.

[57] Ep. 180. [al. 228.] ad Honorat. (ibid. p. 834 f.) Quæ disceptatio, si aliter non potuerint terminari, quantum mihi videtur, qui maneant et qui fugiant, sorte legendi sunt.

[58] De Doctrin. Christian. l. 1. c. 18. (t. 3. part. 1. p. 14 b.)... Si tibi abundaret aliquid, quod dari oporteret ei, qui non haberet, nec duobus dari posset, si tibi occurrerent duo, quorum neuter alium vel indigentia, vel erga te aliqua necessitudine superaret; nihil justius faceres, quam ut sorte legeres, cui dandum esset, quod dari utrique non posset.

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some special divine direction, as in the case of Matthias and Jonas, which, St. Jerom[59] says, 'are not to be drawn into example; because special privileges cannot make a common or general law for all cases:' and it is plain, that without such special direction lots of that kind will be matter of mere chance, or else pure divination.

Of divination by express compact with Satan.

4. There were some other ways of divination, far more abominable than the former, because they were done by express compact with the devil, and always implied his concurrence and assistance. Sometimes he gave answers by his images and idols, which were called *oracles*. Sometimes by speaking in his prophets, whom he possessed, who were called *Pythonici* and *Pythonissæ*, *possessed with a familiar*, or *spirit of divination*, and ἐγγαστριμύθοι, because they *spake out of the belly* by the navel. Sometimes men used certain ceremonies in sleeping in such a posture in a temple, on the skins of the sacrifices, &c., to receive his impressions and answers by dreams, which was called *ὀνειρομαντεία*. Sometimes he gave answers by spectres and appearances from the dead, as he did to Saul by the witch of Endor: this they properly called *necromancy*, that is, *divination by the dead*. Sometimes he spake by *the skull of a dead man*, called *κρανιομαντεία*. Sometimes he gave answers by certain signs and figures made in the earth, or water, or air, or fire, or a glass, or a riddle, and a thousand other ways of imposture, either by real appearances, or by deluding the imagination. The names of which and the transactions may be seen in Delrio[60], or Lessius[61], or Du Moulin[62], who treat more particularly of them. That which is to our present purpose is only to observe, that, as this crime had in it a mixture of idolatry, heresy, infidelity, apostasy, sacrilege, hypocrisy, curiosity, and ambition; each one of which was an high crime in itself; so

[59] In Jon. 1. (t. 6. p. 398 d.) Nec statim debemus sub hoc exemplo sortibus credere, vel illud de Actibus Apostolorum huic testimonia copulare, ubi sorte in apostolatum Matthias eligitur: cum privilegia singulorum non possint facere legem communem [al. legem facere.]

[60] Disquisitiones Magicæ. See l. 1. c. 2. (pp. 3, seqq.) and l. 4. c. 2. s. 1. quæst. 6. (pp. 534, seqq.) as well as s. 2, and the following.

[61] De Jure et Justitia, l. 2. c. 43. dubit. 5. (p. 569.) Quid sit divinatio, et quænam ejus species.

[62] Molinæi Vates, l. 3. c. 6. &c. (pp. 151, seqq.) Variæ species, &c. De Astrologis, &c. De Oraculis, &c.

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the Church was always careful to lay the heaviest censure of excommunication upon it. The general name, under which all the species of it are condemned, is *μαντεία*, *prophesying* or *divining* by Satan's inspiration. In the Constitutions[63], among those that are to be denied baptism, the *μάνται*, *oracle-mongers*, are particularly specified. And in the Council of Ancyra[64], 'those that follow after such diviners, *οἱ καταμαντευόμενοι*, or take them into their houses to exercise their wicked arts, are to be excluded from communion, and do five years' penance.' By a law of Constantius in the Theodosian Code[65], the *vates* and *harioli* are reckoned among others who practise forbidden arts, such as soothsayers, astrologers, augurs, Chaldeans, magicians, and both they that use such curious divinations, and they that consult them, are condemned to die, as guilty of a capital crime and offence against religion.

Gothofred[66] observes, that this law is often mentioned with

[63] [L. 8. c. 32. See before, s. 1. n. 26, preceding. See the canon at length at b. 11. ch. 5. s. 8. v. 3. p. 88.—The term *μάνται* is scarcely correct, *μάντεις* would perhaps be more so from *μάντις*, which is used in the place cited from the Constitutions, and also in the 72nd canon of St. Basil, which is cited in the note following, together with the 61st of the Council of Trullo, afterwards in the sixth section, p. 258. n. 1. Ed.]

[64] C. 24. (t. 1. p. 1465 d.) *Οἱ καταμαντευόμενοι, καὶ ταῖς συνηθείαις τῶν χρόνων* [al. *ἐθνῶν*] *ἐξακολουθοῦντες, ἢ εἰσάγοντές τινας εἰς τοὺς ἑαυτῶν οἴκους ἐπὶ ἀνευρέσει φαρμακειῶν, ἢ καὶ καθάρσει, ὑπὸ τὸν κανόνα πιπτέτωσαν τῆς πενταετίας κατὰ τοὺς βαθμοὺς ὡρισμένους, τρία ἔτη ὑποπτώσεως, καὶ δύο ἔτη εὐχῆς χωρὶς προσφορᾶς.*—Conf. Basil. c. 72. (CC. t. 2. p. 1352 [corrige, 1752] e.) *Ὁ μάντεσιν ἑαυτὸν ἐπιδοὺς, ἤ τισι τοιούτοις, τὸν χρόνον τῶν φονέων καὶ αὐτὸς ἐπιτιμηθήσεται.*

[65] L. 9. tit. 16. de Maleficis et Mathematicis, leg. 4. (t. 3. p. 119.) Nemo aruspicem consulat aut mathematicum, nemo hariolum. Augurum et vatum prava confessio conticescat. Chaldæi ac magi et cæteri, quos maleficos ob facinorum magnitudinem vulgus appellat, nec ad hanc partem aliqui moliantur. Sileat omnibus perpetuo divinandi curiositas. Etenim supplicium capitis feret gladio ultore prostratus, quicunque jussis obsequium denegaverit.

[66] In loc. (ibid. p. 119.) Sane Constantii legem memorat quoque Libanius de Vita sua, p. 11. ubi agit de Crispinis Heracleotis patruo: *Ὑπὸ τοῦ θείου τινὸς ὡς ἀληθῶς ἀνθρώπου καὶ πλείω τε θεοῖς ἢ ἀνθρώποις ὁμιλήσαντος ἐν γῇ· καὶ τοίγε νόμος εἶργε, καὶ ἦν ἡ δίκη τῷ τολμῶντι θάνατος. Legem*, ait, *latam adversus divinos et vates, qua pœna mortis his indicta.* Eodemque refert Libanii locum Orat. 21. ad Theodosium, p. 393., ubi Juliani nomen loco Constantii infartum: et pœnam ignis impositam ibidem testatur. Capitale igitur id, vetitumque sub Constantio, ut præter Ammianum Marcellinum pluribus locis, docet quoque Libanius dicta oratione. Mamertinus in Grat. Act. ad Julianum, et tot Constantii leges adversus id. Ammiani Marcellini locus hic inter alios sternendus est, quo in Gestis anni superioris (id est, A.D. 356)... hæc de eodem Constantio memorat, l. 16. p. 72: *Superato Marcello, ever-*

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some regret by the Heathen writers, Ammianus Marcellinus, Mamertinus, and Libanius, who give some instances of Constantius's severity in putting it in execution. Constantine, by a former law or two[67], had indulged the Heathen in the liberty of consulting their augurs, provided they did it in public, and never put any questions concerning the state of the commonwealth or the life of the prince; which is noted also by Julius Firmicus Maternus in his Books of Astrology[68], written whilst he was an Heathen: but Constantius finding great abuses made of this permission universally prohibited all such consultations under the forementioned penalty of death: which extended not only to magicians, but to the *harioli* and the *vates;* the former of which waited on the altars to receive their inspiration from the fumes of the sacrifices, as Tertullian[69] describes them; and the latter, the *vates,* were those who pretended to prophesy by the perpetual motion of an indwelling demon;

saque Serdica unde oriebatur, in castris Augusti per simulationem tuendæ majestatis imperatoriæ multa et nefanda perpetrabantur. Nam si quis super occentu soricis, vel occursu mustelæ, vel similis signi gratia consuluisset quemquam peritum, aut anile incantamentum ad leniendum dolorem adhibuisset, (*quod medicinæ quoque admittit auctoritas,*) *reus unde non poterat opinari delatus, raptusque in judicium, pœnaliter interibat:* et quæ sequuntur: ubi inter cætera de Mavortio præfecto-prætorio, in hujusmodi negotiis judice seu cognitore delegato, agit. *Re,* inquit, *comperta, jubetur Mavortius tunc præfectus-prætorio, vir sublimis constantiæ, crimen acri inquisitione spectare, juncto ad audiendi societatem Ursulo largitionum comite, severitatis itidem non improbandæ.*

[67] Cod. Theod. ibid. leg. i. (p. 114.) Superstitioni suæ servire cupientes poterunt publice ritum proprium exercere.—Ibid. leg. 2. (p. 115.) Qui vero id vobis existimatis conducere, adite aras publicas atque delubra, et consuetudinis vestræ celebrate solemnia: nec enim prohibemus præteritæ usurpationis officia libera luce tractari.

[68] De Mathesi, sive Astronomia, l. 2. c. 33. (p. 44. 6.) Dabis sane responsa publice, et hoc interrogaturis ante prædicito, quod omnia quidem illa [illis], de quibus interrogant te, clara sis voce dicturus: ne quid a te tale forte quæratur, quod non liceat nec interrogare nec dicere. Cave, ne quando de statu reipublicæ vel de vita Romani imperatoris aliquid interroganti respondeas. Non enim oportet nec licet, ut de statu reipublicæ aliquid nefaria curiositate dicamus. Sed et sceleratus atque animadversione dignus est, si quis interrogatus de fato dixerit imperatoris, quia nec dicere poteris de eo aliquid, nec invenire. Scire enim te convenit, quod et aruspices, quotiescunque a privatis interrogati de statu imperatoris fuerint, et quærenti respondere voluerint, exta semper, quæ ad hoc fuerint destinata, ac venarum ordines involuta confusione conturbent.... Nunquam nocturnis sacrificiis intersis, sive illa publica, sive privata dicantur, nec secrete cum aliquo fabulas conferas, sed palam sub conspectu omnium istius divinæ artis exerce disciplinam.

[69] Apolog. c. 23. (p. 22 d. sub im.)... Qui aris inhalentes numena de nidore concipiunt.

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whom therefore the Latins called *fanatici*, and the Greeks ἐνθουσιασταὶ, and θεόληπτοι, and θεοφορούμενοι, &c., as may be seen in Theodoret[70], and Suidas[71], and many others[72]. Now, because no Christian could practise this art, nor consult those that did, without direct communication with devils, therefore the civil law made it a capital crime, and the ecclesiastical law punished it with the severest censure of excommunication.

Of magical enchantment and sorcery.

5. Next to the superstition of divination was that of magic and sorcery; which, because it commonly tended to work mischief, therefore they who gave themselves to it were usually termed *venefici* and *malefici*, because either by poison or other means of fascination they wrought pernicious effects upon others. The laws of the Theodosian Code[73] frequently brand them with this name of *malefici*. Particularly they are charged by Constantine[74] as making attempts by their wicked arts upon the lives of innocent men, and drawing others by magical potions, called *philtra* and *pharmaca*, to commit uncleanness. All such when they are detected are appointed to be put to death. Constantius[75] charges them further with disturbing

[70] L. 4. c. 11. (v. 3. p. 161. 9.) Ἐνθουσιασταὶ γὰρ καλοῦνται δαίμονός τινος ἐνέργειαν ἐκδεχόμενοι, &c.

[71] De voce, Ἔνθους. (t. 1. p. 917 b. 5.) Θεοφορούμενος· ἐνθουσιῶν· συναλοιφὴ δὲ τοῦ ἔνθεους.

[72] Harmenopulus de Sectis Hæreticis, n. 18. de Massalianis. (ap. Bibl. Patr. Gr. Lat. t. 1. p. 537 a. 9.) ... Καλοῦνται δὲ ἐκ τοῦ πράγματος καὶ ἐνθουσιασταί· δαίμονος γὰρ ἐνέργειαν λαβόντες Πνεύματος Ἁγίου εἶναι ταύτην ὑπολαμβάνουσιν.

[73] L. 9. tit. 16. de Maleficiis, leg. 6. (t. 3. p. 124.) Magus vel magicis cantaminibus assuetus, qui *maleficus* vulgi consuetudine nuncupatur, &c. —Ibid. leg. 9. (p. 128.) Haruspicinam ego nulluin cum *maleficiorum* causis habere consortium judico.—Ibid. leg. 10. (p. 130.) Nonnulli ex ordine senatorio *maleficiorum* insimulatione atque invidia stringebantur.—Ibid. leg. 11. (p. 131.) Quicunque *maleficiorum* labe pollutum audierit, &c. —Tit. 38. de Indulgentiis Criminum, leg. 1. (p. 267.) Propter Crispi atque Helenæ partum omnibus indulgemus, præter veneficos, homicidas, adulteros.—Ibid. leg. 3. (p. 271.) Ob diem Paschæ...omnibus, quos reatus astringit, carcer inclusit, claustra dissolvimus: attamen sacrilegus, in majestate reus, in mortuos veneficus, sive maleficus, adulter, raptor, homicida, communione istius muneris separentur.—Ibid. leg. 4. (p. 273.) Paschæ celebritas postulat, ut quoscunque nunc ægra exspectatio quæstionis, pœnæque formido solicitat, absolvamus. Decretis tamen veterum mos gerendus est, ne temere homicidii crimen, adulterii fœditatem, majestatis injuriam, maleficiorum scelus, insidias venenorum raptusque violentiam sinamus evadere.— See also legg. 6, 7, 8, cited afterwards at ch. 10. s. 1.

[74] Ibid. leg. 3. (t. 3. p. 116.) Eorum est scientia punienda, et severissimis merito legibus vindicanda, qui magicis accincti artibus, aut contra hominum moliti salutem, aut pudicos ad libidinem defixisse animos detegentur.

[75] Ibid. leg. 5. (t. 3. p. 121.) Multi magicis artibus ausi elementa turbare, vitas insontium labefactare non dubitant, et Manibus accitis audent ventilare, ut quisque suos

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the elements, or raising of tempests, and practising abominable arts in the evocation of the infernal spirits to assist men in destroying their enemies: whom he therefore orders to be executed as unnatural monsters, and quite divested of the principles of humanity. And it is observable that in all those laws of the Christian emperors, which granted indulgence to criminals at the Easter-festival[76], the *venefici* and the *malefici*, that is, *magical practisers against the lives of men*, are always excepted, as guilty of too heinous a crime to be comprised within the general pardon granted to other offenders. And according to these measures the laws of the Church were strict and severe against all such, under whatever character or denomination they were found guilty. The Council of Laodicea[77] condemns them under the name of *magicians* and *enchanters*, together with those called *mathematici* and *astrologers*, ordering all such to be cast out of the Church. The Council of Ancyra[78] forbids the art under the name of *φαρμάκεια*, *pharmacy*, that is, the magical art of inventing and preparing medicaments to do mischief: and five years' penance is there appointed for any one that receives a magician into his house for that purpose. St. Basil's Canons[79] condemn it under the same character of *pharmacy* or *witchcraft*, and lays thirty years' penance upon it. And the fourth Council of Carthage[80] censures it under the name of *enchantment*, joining it with augury, and denying communion to all such as follow after either; not to mention what private writers, Origen[81], Ter-

conficiat malis artibus inimicos: hos, quoniam naturæ peregrini sunt, feralis pestis absumat.

[76] Ibid. tit. 38. de Indulgentiis Criminum, legg. 1, 3, 4, 6, 7, 8. See before, ch. 4. s. 1. p. 179. nn. 3, 4, 5.

[77] C. 36. (t. 1. p. 1504 b.) Ὅτι οὐ δεῖ ἱερατικοὺς ἢ κληρικοὺς, μάγους ἢ ἐπαοιδοὺς εἶναι, ἢ μαθηματικοὺς, ἢ ἀστρολόγους, &c.

[78] C. 24. See before, n. 64, preceding.

[79] C. 7. [Oper. Basil. Ep. 188. Canonic. Prim.] (CC. t. 2. p. 1724 a.) Φαρμακοὶ, καὶ μοιχοὶ, καὶ εἰδωλολάτραι, τῆς αὐτῆς καταδίκης εἰσὶν ἠξιωμένοι.—C. 65. [Oper. Basil. Ep. 217. Canonic. Tert.] (ibid. p. 1749 e.) Ὁ γοητείαν ἢ φαρμακείαν ἐξαγορεύων, τὸν τοῦ φονέως χρόνον ἐξομολογήσεται.

[80] C. 89. (t. 2. p. 1206 e.) Auguriis vel incantationibus servientem, a conventu ecclesiæ separandum.

[81] Cont. Cels. l. 7. p. 378. (t. 1. p. 743 b.) ... Οὐ χρὴ θεραπεύειν δαίμονας, ὅστις σέβει Θεόν. Δηλοῦται δὲ τὰ περὶ τοὺς δαίμονας καὶ ἐκ τῶν καλούντων δαίμονας ἐπὶ τοῖς ὀνομαζομένοις φίλτροις, ἢ μισήτροις, ἢ ἐπὶ κωλύσεσι πράξεων, ἢ ἄλλων τοιούτων μυρίων· ἅπερ ποιοῦσιν οἱ δι' ἐπῳδῶν καὶ μαγγανειῶν μεμαθηκότες καλεῖν καὶ ἐπάγεσθαι δαίμονας ἐφ' ἃ βούλονται. Διόπερ ἡ πάντων δαιμόνων θεραπεία ἀλλοτρία ἡμῶν ἐστι, τῶν σεβόντων τὸν ἐπὶ πᾶσι Θεόν.

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tullian[82], Hermes Pastor[83], and many others have said against it: Tertullian particularly observing, that there never was a magician or enchanter allowed to escape unpunished in the Church.

Of amulets, charms, and spells to cure diseases.

6. But there was one sort of enchantment, which many ignorant and superstitious Christians, out of the remains of Heathen error, much affected: that was the use of charms and amulets and spells to cure diseases, or avert dangers and mischiefs, both from themselves and the fruits of the earth. For Constantine had allowed the Heathen, in the beginning of his reformation, for some time not only to consult their augurs in public, but also to use charms by way of remedy for bodily distempers[84], and to prevent storms of rain and hail from injuring the ripe fruits, as appears from that very law where he condemns the other sort of magic that tended to do mischief to be punished with death. And probably from this indulgence granted to the Heathen many Christians, who brought a tincture of Heathenism with them into their religion, might take occasion to think there was no great harm in such charms or enchantments, when the design was only to do good and not evil. However it was, this is certain in fact, that many Christians were much inclined to this practice, and therefore made use of charms and amulets, which they called *periammata* and *phylacteria, pendants* and *preservatives,* to secure themselves from danger and drive away bodily distempers.

These phylacteries, as they called them, were a sort of amulets made of ribbons, with a text of Scripture or some other charm of words written in them, which they imagined, without any natural means, to be effectual remedies or preservatives against diseases. Therefore the Church, to root this superstition out of men's minds, was forced to make severe laws

[82] De Idolol. c. 9. (p. 90 b.) Post Evangelium nusquam invenies aut sophistas, aut Chaldæos, aut incantatores, aut conjectores, aut magos, nisi plane punitos.

[83] L. 1. vision. 3. n. 9. (Cotel. t. 1. p. 81.)... Malefici quidem venena sua in pyxidibus bajulant.

[84] Cod. Theod. lib. 9. tit. 16. de Maleficis, leg. 3. (t. 3. p. 116.) Nullis vero criminationibus implicanda sunt remedia humanis quæsita corporibus, aut in agrestibus locis, ne maturis vindemiis metuerentur imbres, aut ruentis grandinis lapidatione quaterentur, adhibita innocenter suffragia, quibus non cujusque salus aut existimatio læderetur, sed quorum proficerent actus, ne divina munera, et labores hominum sternerentur.—See also n. 67, preceding.

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against it. The Council of Laodicea[85] condemns 'clergymen that pretended to make such phylacteries, which were rather to be called bonds and fetters for their own souls,' and orders 'all such as wore them to be cast out of the Church.' St. Chrysostom often mentions them with some indignation. Upon those words of the Psalmist, [9, 14.] "I will rejoice in thy salvation," says he[86], 'We ought not simply to desire to be saved, and delivered from evil by any means whatever, but only by God. And this I say upon the account of those who use enchantments in diseases, and seek to relieve their infirmities by other impostures. For this is not salvation but destruction.' In another place[87], dissuading Christians from running to the Jews, who pretended to cure diseases by such methods, he tells them, 'that Christians are to obey Christ, and not to fly to his enemies; though they pretend to make cures, and promise you a remedy to invite you to them, choose rather to discover their impostures, their enchantments, their amulets, their witchcraft: for they pretend to work cures no other way; neither indeed do they work them truly at all, God forbid. But I will say one thing further, although they did work true cures, it were better to die than to go to the enemies of Christ and be cured after that manner. For what profit is it to have the body cured with the loss of our soul? what advantage, what comfort shall we get thereby, when we must shortly be sent into everlasting fire?' He there proposes the example of Job, and Lazarus, and the infirm man who had waited at the

[85] C. 36. See before, n. 77, preceding.

[86] In Ps. 9, 14. al. 15. t. 3. p. 137. (t. 5. p. 104 c.) Οὕτω δὴ καὶ ἡμεῖς μὴ πάντως σωθῆναι ζητήσωμεν, μὴ πάντως ἀπαλλαγῆναι τῶν δεινῶν παντὶ τρόπῳ, ἀλλὰ κατὰ Θεόν. Τοῦτο δὲ λέγω διὰ τοὺς ἐπαοιδαῖς χρωμένους ἐν ταῖς νόσοις, καὶ ἑτέρας μαγγανείας ἐπιζητοῦντας εἰς παραμυθίαν τῆς ἀρρωστίας· τοῦτο γὰρ οὐχὶ σωθῆναί ἐστιν, ἀλλ' ἀπολέσθαι.

[87] Hom. 6. [Bened. 8. Savil. 5.] cont. Judæos, t. 1. p. 56. (t. 1. p. 681 b.) Χριστιανοὶ διὰ τοῦτο καὶ καλούμεθα καὶ ἐσμὲν, ἵνα τῷ Χριστῷ πειθώμεθα, οὐχ ἵνα πρὸς τοὺς ἐχθροὺς τρέχωμεν. Ἂν δέ τινας θεραπείας προτείνηται, καὶ λέγῃ πρός σε, Ὅτι ὑπισχνοῦνται θεραπεύειν, καὶ διὰ τοῦτο πρὸς αὐτοὺς τρέχω· ἀνακάλυψον αὐτῷ τὰς μαγγανείας, τὰς ἐπῳδὰς, τὰ περιάμματα, τὰς φαρμακείας· οὐδὲ γὰρ ἄλλῳ τινὶ τρόπῳ δοκοῦσι θεραπεύειν, οὐδὲ γὰρ θεραπεύουσι κατὰ ἀλήθειαν· μὴ γένοιτο. Ἐγὼ δὲ καὶ ὑπερβολὴν ποιοῦμαι πολλὴν, καὶ ἐκεῖνο λέγω, Ὅτι εἰ καὶ θεραπεύουσιν ἀληθῶς, βέλτιον ἀποθανεῖν, ἢ τοῖς ἐχθροῖς τοῦ Θεοῦ προσδραμεῖν, καὶ τοῦτον θεραπευθῆναι τὸν τρόπον. Τί γὰρ ὄφελος, σῶμα θεραπεύεσθαι, τῆς ψυχῆς ἀπολλυμένης; τί δὲ κέρδος, ἐνταῦθά τινος τυγχάνειν παραμυθίας, μέλλοντας εἰς τὸ ἀθάνατον παραπέμπεσθαι πῦρ;

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Pool of Bethesda thirty and eight years, who never betook themselves to any diviner, or enchanter, or juggler, or impostor: they tied no amulets nor plates to their bodies, but expected their help only from the Lord; and Lazarus chose rather to die in his sickness and sores than betray his religion in any wise by having recourse to those forbidden arts for cure.' This he reckons 'a sort of martyrdom[88], when men choose rather to die or suffer their children to die than make use of amulets and charms: for though they do not sacrifice their bodies with their own hands, as Abraham did his son, yet they offer a mental sacrifice to God.' On the contrary, he says, 'the use of amulets was idolatry, though they that made a gain by it offered a thousand philosophical arguments to defend it, saying, We only pray to God, and do nothing more; and, The old woman that made them was a Christian and a believer, with other such like excuses. If thou art a believer, sign thyself with the sign of the cross: say, This is my armour, this my medicament; besides this I know no other. Suppose a physician should come, and instead of medicines belonging to his art should use enchantment only; would you call him a physician? no, in no wise: because we see not medicines proper to his calling: so neither are your medicines proper to the calling of a Christian.' He adds, 'that some women put the names of rivers into their charms; and others ashes, and soot, and salt, crying out that the child was taken with an evil eye, and a thousand ridiculous things of the like nature, which exposed Christians to the scorn of the Heathen, many of whom were wiser than to hearken to any such fond impostures.' Upon the whole matter he tells them, 'that if he found any henceforward that made amulets or charms, or did any other thing belonging to this art, he would no longer spare them;'

[88] Hom. 8. in Coloss. p. 1374. (t. 11. p. 586 e.) *Πάλιν ἐνόσησεν; οὐκ ἐποίησε περίαπτα· μαρτύριον αὐτῇ λογίζεται· κατέθυσε γὰρ τὸν υἱὸν τῇ γνώμῃ. Τί γὰρ εἰ καὶ μηδὲν ὠφελεῖ ἐκεῖνα, ἀλλ' ἀπάτης ἐστὶ καὶ χλεύης; ἀλλ' ὅμως ἦσαν οἱ πείθοντες, ὅτι ὠφελεῖ· καὶ εἵλετο μᾶλλον νεκρὸν τὸ παιδίον ἰδεῖν, ἢ εἰδωλολατρίας ἀνασχέσθαι·... μᾶλλον δὲ ἤδη ἐποίησε τὸ τῆς θυσίας. Τὰ γὰρ περίαπτα, κἂν μυρία φιλοσοφῶσιν οἱ ἐκ τούτων χρηματιζόμενοι, λέγοντες ὅτι τὸν Θεὸν καλοῦμεν, καὶ οὐδὲν πλέον ποιοῦμεν, καὶ ὅσα τοιαῦτα, καὶ Χριστιανή ἐστιν ἡ γραῦς καὶ πιστή, εἰδωλολατρεία τὸ πρᾶγμά ἐστι. Πιστὴ εἶ; σφράγισον· εἰπὲ, Τοῦτο ἔχω τὸ ὅπλον μόνον, τοῦτο τὸ φάρμακον· ἄλλο δὲ οὐκ οἶδα. Εἰπέ μοι, ἐὰν προσελθὼν ἰατρὸς, καὶ τὰ τῆς ἰατρικῆς φάρμακα ἀφεὶς, ἐπᾴδῃ, τοῦτον ἰατρὸν ἐροῦμεν; οὐδαμῶς, τὰ γὰρ τῆς ἰατρικῆς οὐκ ὁρῶμεν φάρμακα· οὕτως οὐδὲ ἐνταῦθα τὰ τοῦ Χριστιανισμοῦ.*

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meaning that they should feel the severity of ecclesiastical censure for such offences. In other places[89] he complains of women that made phylacteries of the Gospels to hang about their necks. And the like complaints are made by St. Basil[90] and Epiphanius[91]. Which shows that this piece of superstition of trying to cure diseases without physic was deeply rooted in the hearts of many Christians.

The Church indeed often cured diseases without physic, but then it was in the same way that she dispossessed devils, and wrought many miracles for the good of the world by the power of Christ and invocation of his name. 'She did nothing,' as Irenæus[92] says, 'by invocation of angels, or enchantment, or any other curiosity, but by directing her prayers pure and clean and openly to the God that made all things; and by invocating the name of the Lord Jesus Christ she wrought miracles for the benefit of men, and not for their seduction.' This was the difference between heretics and the Church: heretics commonly made use of enchantment, as is noted particularly by Irenæus concerning the Basilidians[93], who had their images, which they used as amulets, having the name of *abraxas* or *abracadabra*, or as Baronius[94] thinks, the names of their three hundred and sixty-five heavens, answering to the like number of members in human bodies, written

[89] Hom. 73. [Bened. 72. al. 73.] in Matth. p. 627. (t. 7. p. 703 b.)... Ἃ φυλακτήρια ἐκάλουν· ὡς πολλαὶ νῦν τῶν γυναικῶν Εὐαγγέλια τῶν τραχήλων ἐξαρτῶσαι ἔχουσι.

[90] In Ps. 45. p. 229. (t. 1. part. 1. p. 244 c. n. 2.).. Ὅταν ἐν ταῖς θλίψεσιν ἐπὶ πάντα μᾶλλον ἢ ἐπὶ τὸν Θεὸν τρέχωμεν. Νοσεῖ τὸ παιδίον; καὶ σὺ τὸν ἐπαοιδὸν περισκοπεῖς, ἢ τὸν τοὺς περιέργους χαρακτῆρας τοῖς τραχήλοις τῶν ἀναιτίων νηπίων περιτιθέντα; κ. τ. λ.

[91] Hær. 15. Scribæ, quæ est secunda Judaismi secta. (t. 1. p. 32.) [The passage referred to contains no allusion to women wearing charms, but speaks of the phylacteries of the Scribes:—Καὶ φυλακτήρια παρ' ἑαυτοῖς ἐπὶ τὰ ἱμάτια ἐπετίθετο, τουτέστι πλατέα σήματα πορφύρας. Νομίσειε δ' ἄν τις, ἐπειδήπερ καὶ ἐν τῷ Εὐαγγελίῳ τούτῳ [leg. τοῦτο] ἐμφέρεται, μὴ ἄρα [περὶ] περιάπτων λέγει· ἐπειδὴ γὰρ καὶ εἰώθασί τινες τὰ περίαπτα φυλακτήρια ὀνομάζειν· οὐκ ἔχει δὲ ὁ λόγος τὸ παράπαν περὶ τούτου. Ed.]

[92] L. 2. c. 57. (p. 189. 8.) Nec invocationibus angelicis facit, nec incantationibus, nec reliqua [al. aliqua] prava curiositate, sed munde et pure et manifeste orationes dirigens ad Dominum, qui omnia fecit; et nomen Domini nostri Jesu Christi invocans, virtutes secundum utilitates hominum, sed non ad seductionem perficit.

[93] L. 1. c. 23. (p. 98. 20.) Utuntur hi magia et incantationibus et invocationibus et reliqua universa perierga, &c.

[94] An. 120. n. 10. [nn. 13, 14, 15.] (t. 2. p. 65 d.) Ad quod manifeste probandum, &c.

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upon them. And St. Austin complains[95], 'that some of Satan's instruments, who professed the exercise of these arts, were used to set the name of Christ before their ligatures and enchantments and other devices to seduce Christians, and induce them to take the venomous bait under the covert of a sweet and honey-potion, that the bitter might lie hid under the sweet, and make men drink it without discerning to their destruction.' To such he gives this advice, to seek Christ only in the way which he has appointed: 'When we are afflicted with pains in our head, let us not run to enchanters and fortune-tellers and remedies of vanity. I mourn for you, my brethren: for I daily find these things done. And what shall I do? I cannot yet persuade Christians to put their trust only in Christ. With what face can such a soul go unto God that has lost the sign of Christ, and taken upon him the sign of the Devil?' In another place[96] he bids them, 'when they are sick, receive the body and blood of Christ, and anoint themselves with that unction which may prove beneficial both to body and soul. For when they may have a double advantage in the Church, why should miserable men endeavour to bring upon themselves such multiplicity of evils by running to enchanters, and fountains, and trees, and diabolical phylacteries, and characters, and soothsayers, and diviners, and fortune-tellers?' He mentions many other superstitions of the like nature, which were the remains of Heathenism, such as the sacrilegious custom used about the hind, their crying out when the moon was eclipsed to defend themselves from witchcraft, their keeping Thursday holiday in honour of Jupiter; concerning all which he concludes, that they who still continued to follow such vanities ought to be reproved by their fellow

[95] Tractat. 7. in Ioan. t. 9. p. 27. (t. 3. part. 2. p. 344 b.) ..... Qui seducunt per ligaturas, per præcantationes, per machinamenta inimici, miscent præcantationibus suis nomen Christi: quia jam non possunt seducere Christianos, ut dent venenum, addunt mellis aliquid [al. aliquantum], ut per id, quod dulce est, lateat quod amarum est, et bibatur ad perniciem.

[96] Serm. 215. de Temp. [al. Serm. 265. append.] (t. 5. append. p. 309 c.) Quoties aliqua infirmitas supervenerit, corpus et sanguinem Christi ille, qui ægrotat, accipiat; et inde corpusculum suum unguat, ut illud, quod scriptum est, impleatur in eo, *Infirmatur aliquis, inducat presbyteros, et orent super eum, unguentes eum oleo; et oratio fideis alvabit infirmum, et allevabit eum Dominus: et, si in peccatis sit, dimittentur ei.* Videte, fratres, quia qui in infirmitate ad ecclesiam cucurrerit, et corporis sanitatem recipere, et peccato-

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Christians[97], and if after that they did not amend their ways, they should thenceforward banish them from all society, both in eating and conversation. Some think this Homily rather belongs to Cæsarius Arelatensis; and if so, it only shows that this crime prevailed among some in France, as it did for many ages after: which appears from the Capitulars of Charles the Great[98], where decrees were made against calculators, enchanters, and tempestarians as they are called, that is, raisers of storms and tempests, and obligators or makers of phylacteries to bind about the neck. Who are also noted and condemned in the Council of Rome[99], under Gregory II, anno 721, and in the Council of Trullo[1], which 'forbids any one to consult diviners, or those called *centenarii*, or any such, to discover secrets, under the penalty of six years' penance, according to the rules of the ancient Fathers.' And the same penalty is imposed upon those who carry about she-bears, *πρὸς παίγνιον, to the delusion and hurt of the people,* and use the words *fortune,* and *fate,* and *genealogy,* and such like names, to impose upon the simple. Also all observers of the clouds, and jugglers, and makers of phylacteries[2], and diviners, per-

rum indulgentiam merebitur obtinere. Cum ergo duplicia bona possint in ecclesia inveniri, quare per præcantatores, per fontes et arbores et diabolica phylacteria, per characteres et haruspices et divinos vel sortilegos, multiplicia sibi mala miseri homines conantur inferre?—Vid. de Doctrin. Christian. l. 2. c. 20. See afterwards, s. 8. p. 267. n. 20.

[97] Ibid. (p. 438 b.) .... Quoscunque tales esse cognoveritis, durissime castigate. Et si emendare noluerint, nec ad colloquium, nec ad convivium vestrum eos venire permittite.

[98] Capitul. Aquisgran. l. 1. c. 64. (CC. t. 7. p. 984 d.) Calculatores, incantatores, nec tempestarii, vel obligatores non fiant: et ubicunque sunt, vel emendentur vel damnentur.

[99] C. 12. (t. 6. p. 1457 b.) Si quis hariolos, aruspices, vel incantatores observaverit, aut phylacteriis usus fuerit, anathema sit.—Vid. Capitul. Martin. Bracarens. c. 72. (CC. t. 5. p. 913 c.) Non liceat Christianis tenere traditiones Gentilium, et observare vel colere elementa, aut stellarum cursum, et inanem signorum fallaciam pro domo facienda. Scriptum est enim: *Omnia quæ facitis aut in verbo, aut in opere, omnia in nomine Domini nostri Jesu Christi facite, gratias agentes Deo.*

[1] C. 61. (t. 6. p. 1170 c.) Οἱ μάντεσιν ἑαυτοὺς ἐπιδιδόντες, ἢ τοῖς λεγομένοις ἑκατοντάρχαις, ἤ τισι τοιούτοις, ὡς ἂν παρ' ἐκείνων μάθοιεν, εἴ τι ἂν αὐτοῖς ἐκκαλύπτεσθαι βούλοιντο, κατὰ τὰ πρῴην ὑπὸ τῶν πατέρων περὶ αὐτῶν ὁρισθέντα ὑπὸ τὸν κανόνα πιπτέτωσαν τῆς ἑξαετίας.

[2] Ibid. (c.) Τῷ αὐτῷ δὲ τούτῳ ἐπιτιμίῳ καθυποβάλλεσθαι δεῖ καὶ τοὺς τὰς ἄρκτους ἐπισυρομένους, ἢ τοιαῦτα ζῶα, πρὸς παίγνιον καὶ βλάβην τῶν ἁπλουστέρων· καὶ τύχην, καὶ εἱμαρμένην, καὶ γενεαλογίαν, καὶ τοιούτων τινῶν ῥημάτων ὄχλον κατὰ τοὺς τῆς πλάνης λήρους φωνοῦντας. Τοὺς

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sisting in their heathenish and pernicious practices, are ordered to be cast out of the Church: for "What communion," says the Apostle, "hath light with darkness? and what agreement hath the temple of God with idols? and what part hath he that believeth with an infidel? and what concord hath Christ with Belial?" [2 Cor. 6, 14, 15.] It is plain from this, there were still some remains of heathenish superstition and idolatry among Christians, especially in the use of phylacteries and divining, and other such vain observations. But it is hard to guess what are meant by *centurions*, who are here joined with diviners, and forbidden to be consulted.

There is a law of Honorius in the Theodosian Code[3], which Gothofred thinks may give a little light to this canon. For there the *chiliarchæ* and *centenarii*, *captains of thousands*, and *captains of hundreds*, are plainly spoken of as leaders of the people, and managers in ordering the idolatrous pomps of the Gentiles; being joined with the *frediani* and *dendrophori*, which he shows to be those officers in the pomp who carried the images of the gods on their shoulders in procession. They were the chief of certain corporations or companies, who are mentioned in another law of Honorius, under the names of *collegiati* and *vituriarii* or *didumarii*, the officers of *Apollo Didumæus*; and *nemesiaci*, the officers of the goddess *Nemesis*, *Good Fortune* and the dispenser of fate; and *signiferi* and *cantabrarii*[4], who carried the ensigns and banners of their gods in their pomps and games and festivals. And these, as Gothofred[5] shows, out of Commodianus[6], a Christian poet,

τε λεγομένους νεφοδιώκτας, καὶ γοητευτὰς, καὶ φυλακτηρίους, καὶ μάντεις· ἐπιμένοντας δὲ τούτοις καὶ μὴ μετατιθεμένους καὶ ἀποφεύγοντας τὰ ὀλέθρια ταῦτα καὶ Ἑλληνικὰ ἐπιτηδεύματα, παντάπασιν ἀπορρίπτεσθαι τῆς ἐκκλησίας ὁρίζομεν, καθὰ καὶ οἱ ἱεροὶ κανόνες διαγορεύουσι· Τίς γὰρ κοινωνία φωτὶ πρὸς σκότος; κ. τ. λ.

[3] L. 16. tit. 10. de Paganis, leg. 20. (t. 6. p. 291.) Chiliarchas insuper et centenarios, vel qui sibi plebis distributionem usurpare dicuntur, censuimus removendos.

[4] Vid. Cod. Theod. l. 14. tit. 7. de Collegiatis, leg. 2. (t. 3. p. 192.) Collegiatos et vituriarios et nemesiacos, signiferos, cantabrarios, et singularum urbium corporatos, simul forma præcipimus revocari.

[5] In loc. (ibid. p. 193.) Ex his Commodiani verbis colligimus, &c.

[6] Instruct. ad calc. Cyprian. Ed. Rigalt. (ap. Galland. t. 3. p. 627 b.)

Mane ebrio, crudo, perituro, creditis viro
Ex arte qui ficte loquitur, quod illi videtur.....
Ipse sibi nescit divinare, cæteris audet.....
Vertitur a se rotans cum ligno bifurci,
Ac si putes illum afflatum numine ligni.

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pretended to divine and tell fortunes, as inspired by the gods: and they incorporated others into these colleges as principal officers in these pomps; whence they were called *chiliarchæ* and *hecatontarchæ, captains of thousands,* and *captains of hundreds.* All which agrees with the canon of the Council of Trullo, which joins the *hecatontarchæ* with the *vates* or *diviners,* and makes them *fortune-tellers,* talking much of fortune and fate, and genealogies or nativities, to deceive the people. They who carried about she-bears or other animals, Balsamon[7] says, were such impostors as pretended that the hairs of those bears, or toys tied to them, were remedies against witchcraft. And so the Council forbids all these ways of making and using charms and amulets, as the relics of Heathen superstition, still remaining among the weaker and baser sort of Christians.

I have been the more curious in searching into the true meaning of this canon, because it is passed over in silence by most commentators, and the reader with me must own himself beholden to the learned Gothofred for the explication of it.

Of the *præstigiæ,* or *false miracles,* wrought by the power of Satan.

7. There is another sort of impostors mentioned in the same canon under the name of γοητευταὶ, which is a general name for *all that use tricks and impostures;* but here it is taken in a more restrained sense, for *such as pretended to work miracles by the power of magic,* such as Jannes and Jambres among the Egyptians, and Simon Magus among the Jews, and Apollonius Tyanæus and other impostors among the Gentiles. They are otherwise called θαυματοποιοὶ and ψηφάδες, by the Greeks[8], and *præstigiatores* by the Latin writers[9].

[7] [In C. Trull. c. 61. ap. Bevereg. Pandect. t. 1. p. 228 b. (Oper. Balsam. p. 432 a.) Ἄρκτους ἐπισύρειν λέγονται οἱ καλούμενοι ἀρκτοτρόφοι· οἵ τινες βάμματα ἐξαρτῶσι κατὰ τῆς κεφαλῆς καὶ τοῦ ὅλου σώματος τοῦ ζώου, καὶ τρίχας κείροντες ἐκ τούτου, διδόασιν ταύτας σὺν τοῖς βάμμασιν, ὡς φυλακτήρια, καὶ ὡς δυναμένας λυσιτελεῖν ἐν νόσοις καὶ ἐν βασκάνοις ὀφθαλμοῖς. *Grischov.*]

[8] Theodoret. in 2 Thess. 2. 9. (t. 3. part 1. p. 553.) Οὐκ ἀληθῆ θαύματα ποιοῦσι οἱ ἀπὸ τῶν ψήφων τὰς ἐπωνυμίας ἔχοντες.—Athanas. Quæst. 124. ad Antioch. (t. 2. p. 245 d.) Οἱ λεγόμενοι ψηφάδες, καὶ πάλιν αὐτὸς ὁ ἀντίχριστος ἐρχόμενος, ἐν φαντασίᾳ πλανᾷ τοὺς ὀφθαλμοὺς τῶν ἀνθρώπων.—Suidas, voce Ψηφολόγοι. (t. 2. p. 1172 c. 4.) Ψηφολόγοι εἰσὶν οἱ ψοφοπαῖκται· ψηφολογικοὶ γοῦν, οἱ πλανῶντες καὶ ἀπατῶντες, ὥσπερ οἱ ψηφολόγοι, τοὺς ὀφθαλμοὺς τῷ τάχει τῆς μεταθέσεως τῶν ψήφων ἀπατῶντες, συναρπάζουσι.—Capitul. Aquis-

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Their tricks were chiefly shown in making false appearances of things, and imposing upon men by the delusion of the outward senses. The ancient author of the Recognitions[10] describes their art in the person of Simon Magus, whom he brings in giving himself this vain-glorious character: 'I can make myself disappear to those that would apprehend me, and again, I can appear when I please; when I am minded to fly, I can pass through mountains and stones, as through the mire; when I cast myself headlong from a precipice, I am carried as if I were sailing to the earth without harm; when I am bound, I can loose myself, and bind them that bound me; when I am close shut up in prison, I can cause the doors to open of their own accord; I can give life to statues, and make them appear as living men; I can make trees grow suddenly out of the earth, and raise up plants in a moment; I can throw myself into the fire, and not be burnt; I can change my countenance, so as not to be known; yea, I can show myself with two faces unto men: I can make myself a sheep or a goat; I can give

gran. l. 1. c. 64. (CC. t. 7. p. 984 d.) Calculatores, incantatores, tempestarii, &c. [The word ψηφὰς is not found in the Lexicons: except that in the later edition of Stephanus, (Lond. 1826—28. v. 10. col. 10,875.) it is noticed thus *Ψηφὰς, Lex. MS. Hafn. ψηφὰς, ὀφθαλμοπλάνος, *præstigiator*, Athan. 2, 312. Neither is the word noticed in Dean Gaisford's new edition of Suidas. (Oxon. 1834. t. 2. col. 3955.) Ψηφολόγος seems the proper classical expression. See ibid. or the old edition of Suidas as cited just above. See more in Stephanus (ibid. col. 10,864.) at the words ψηφοδέτης, ψηφολόγος, and ψηφοπαίκτης. Ed.]

[9] [Vid. Lexic. Facciolat. et Forcellin. in voc. (Patav. 1830. t. 3. p. 665.) *Giocolare, impostore, caratiere, θαυματοποιὸς, ψηφοπαίκτης,* qui celeritate lusitandi, et ludibria illa oculorum factitandi, ita præstringit visum intuentium, ut miracula facere credatur: seu qui circumstantibus ita oculorum aciem præstringi, tut non advertant dolum. Plaut. Pœn. 5. 3. 6. *Præstigiator hic quidem Pœnus probu' est.*—Senec. Ep. 45. circa med. *Quomodo præstigiatorum acetabula, et calculi, in quibus fallacia ipsa delectat, &c.* Ed.]

[10] L. 2. n. 9. (Cotel. v. 1. p. 506.) Possum enim facere, ut volentibus me comprehendere non appaream, et rursus volens videri, palam sim: si fugere velim, montes perforem, et saxa quasi lutum pertranseam: si me de monte excelso præcipitem, tanquam subvectus ad terras illæsus deferar: vinctus memet ipsum solvam: eos vero, qui me in vincula injecerint, vinctos reddam: in carcere colligatus, claustra sponte patefieri faciam: statuas animatas reddam, ita ut putentur ab his, qui vident, homines esse: novas arbores subito oriri faciam, et repentina virgulta producam: in ignem memetipsum injiciens, non ardeam: vultum meum commuto, ut non agnoscar: sed et duas facies habere me possum hominibus ostendere: ovis aut capra efficiar: pueris parvis barbam producam: in aërem volando invehar: aurum plurimum ostendam: reges faciam eosque dejiciam.

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little children a beard; and fly in the air; I can show much gold, or turn lead into gold; I can set up kings, and dethrone them at pleasure.' Now Tertullian [11] observes, that Simon Magus, for these juggling practices and miracles belonging to his profession, was anathematized by the Apostles, and cast off as an alien from the faith. And all such *sophisters*, as he terms them, had ever the same fate from the beginning of the Gospel. Which observation of Tertullian's is most certainly true, and might be confirmed by abundance of instances in ancient story; and especially of heresiarchs, or founders of new heresies, who pretended commonly to work miracles and wonders to gain a reputation to their novel opinions. I will only mention one or two that were famous in this kind.

The heretic Marcus, the father of the Marcosians, is thus described by an ancient author, who wrote before the time of Irenæus [12], in these words: 'O Marcus, thou idol-maker and wonder-worker, empiric in astrology and art of magic, by which thou dost propagate thy seducing doctrines, making a show of signs and miracles to them that are led into error by thee; the works of the apostate power; which Satan thy father enables thee to do by the angelical power of Azazel, using thee as the forerunner of the antichristian deceit.' And Irenæus [13] himself takes notice of one of his juggling tricks,

[11] De Idolol. c. 9. (p. 90 b.) Exinde et Simon Magus jam fidelis, quoniam aliquid adhuc de circulatoria secta cogitaret, ut scilicet inter miracula professionis suæ etiam Spiritum Sanctum per manuum impositionem enundinaret, maledictus ab Apostolis de fide ejus est..... Et post Evangelium nusquam invenias sophistas,.....nisi plane punitos.

[12] L. 1. c. 12. (p. 76. 3.)

Εἰδωλοποιὲ, Μάρκε, καὶ τερατοσκόπε,
Ἀστρολογικῆς ἔμπειρε καὶ μαγικῆς τέχνης,
Δι' ὧν κρατύνεις τῆς πλάνης τὰ διδάγματα,
Σημεῖα δεικνὺς τοῖς ὑπό σου πλανωμένοις,
Ἀποστατικῆς δυνάμεως ἐγχειρήματα,
Ἃ σὺ χορηγεῖς, ὡς πατὴρ Σατανᾶ εἶ,
Δι' ἀγγελικῆς δυνάμεως [ἐγχειρήματα] Ἀζαζὴλ ποιεῖν,
Ἔχων σε πρόδρομον ἀντιθέου πανουργίας.

[Another and better reading of the sixth line, which the translation in the text, as well as Grabe's version, seems to favour, is thus,—

Ἃ σὸς χορηγεῖ, ὡς πατὴρ, Σατὰν ἀεί.

See Grabe, n. in loc. referring to Billius and Petavius. Ed.]

[13] L. 1. c. 9. (p. 57. 1.) Ποτήρια οἴνῳ κεκραμένα προσποιούμενος εὐχαριστεῖν, καὶ ἐπὶ πλέον ἐκτείνων τὸν λόγον τῆς ἐπικλήσεως, πορφύρεα καὶ ἐρυθρὰ ἀναφαίνεσθαι ποιεῖ· ὡς δοκεῖν τὴν ἀπὸ τῶν ὑπὲρ χάριν τὸ αἷμα τὸ ἑαυτῆς στάζειν ἐν τῷ ἐκείνῳ ποτηρίῳ διὰ τῆς ἐπικλήσεως αὐτοῦ.

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which was, that when he pretended to consecrate the eucharist in a cup of wine and water, he made it appear of a purple and red colour, by a long prayer of invocation, that it might be thought the grace from above distilled the blood into the cup by his invocation. Such another imposture is mentioned by Firmilian in his Letter to Cyprian [14], where he speaks of 'a woman who pretended to be inspired by the Holy Ghost, but was really acted by a diabolical spirit, by which she counterfeited ecstasies, and pretended to prophesy, and wrought many wonderful and strange things, and boasted that she would cause the earth to move. Not that the Devil has so great power, either to move the earth, or shake the element by his command; but the wicked Spirit foreseeing and understanding that there will be an earthquake, pretends to do that which he foresees will shortly come to pass. And by these lies and boastings the Devil subdued the minds of many to obey him, and follow him wheresoever he was pleased to command or lead them. And he made that woman walk barefoot through the snow in the depth of winter, and feel no trouble or harm by running about after this fashion. But at last, after having played many such pranks, one of the exorcists of the Church discovered her to be a cheat, and showed that it was a wicked spirit, which before was thought to be the Holy Ghost.'

[14] Ep. 75. ad Cyprian. p. 222. (p. 323.) Emersit.. subito quædam mulier, quæ in extasi constituta propheten se præferret, et quasi Sancto Spiritu plena sic ageret...Mirabilia quædam ac portentosa perficiens, et facere se terram moveri polliceretur. Non quod dæmoni tanta esset potestas, aut terram movere aut elementum concutere jussu valeret; sed quod nonnunquam spiritus nequam præsciens et intelligens terræ motum futurum, id se facturum esse simularet, quod futurum videret. Quibus mendaciis et jactationibus subegerat mentem singulorum, ut sibi obedirent, et quocunque præciperet et duceret, sequerentur: faceret quoque mulierem illam cruda hieme nudis pedibus per asperas nives ire, nec vexari in aliquo aut lædi in illa discursione: diceret etiam se in Judæam et Hierosolymam festinare, fingens tanquam inde venisset. Hic et unum de presbyteris rusticum, item et alium diaconum fefellit, ut eidem mulieri commiscerentur, quod paullo post detectum est. Nam subito apparuit illi unus de exorcistis, vir probatus et circa religiosam disciplinam bene semper conversatus, qui exhortatione quoque fratrum plurimorum, qui et ipsi fortes ac laudabiles in fide aderant, excitatus, erexit se contra illum spiritum nequam revincendum, qui subtili fallacia etiam hoc paullo ante prædixerat, venturum quendam aversum et tentatorem infidelem. Tamen ille exorcista inspiratus Dei gratia fortiter restitit, et esse illum nequissimum spiritum, qui prius sanctus putabatur, ostendit.

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There are many other such instances in the history of the Montanists and Pepuzians, and the Apellians, and Severians, mentioned by St. Austin [15] and other writers [16]: but these are sufficient to show what pretences were commonly made by heretics to the power of working miracles, which the Church, apprehending them to be wrought by the power of Satan, and not by the Holy Spirit, rejected as impostures, and punished the pretenders with the severest of her censures. For so Eusebius [17] out of Apollinaris particularly tells us of the Montanists, that their new prophecies being judged impious and profane, their doctrine was condemned and the authors expelled from the communion of the Church as enthusiasts and demoniacs, who were already excluded from the participation of the holy mysteries, whilst they remained under the power

[15] De Hæres. c. 26. (t. 8. p. 10 b.) Adventum Spiritus Sancti, a Domino promissum, in se potius quam in Apostolis ejus fuisse asserunt redditum. Secundas nuptias pro fornicationibus habent: atque, ideo dicunt eas permisisse Apostolum Paulum, quia ex parte sciebat et ex parte prophetabat: nondum enim venerat, quod perfectum est. Hoc autem perfectum in Montanum et in ejus prophetissas venisse delirant.—C. 23. (ibid. 9 d.) Apellitæ sunt, quorum Apelles est princeps.... Hunc Apellem dicunt quidam etiam de Christo tam falsa sensisse, ut diceret eum, non quidem carnem deposuisse de cœlo, sed ex elementis mundi accepisse, quam mundo reddidit, cum sine carne resurgens ascendit in cœlum.—C. 24. (ibid. e.) Severiani a Severo exorti.... [Hic præterea Philumenen quandam puellam dicebat inspiratam divinitus ad prænuntianda futura; ad quam somnia atque æstus sui animi referens, divinationibus seu præsagiis ejus secretim erat solitus præmoneri, eodem phantasmate eidem Philumenæ pueri habitu se demonstrante, qui puer apparens Christum se aliquando, aliquando esse assereret Paulum. A quo phantasmate sciscitans, ea soleret respondere, quæ se audientibus diceret. Nonnulla quoque illam miracula operari solitam, inter quæ illud præcipuum, quod in angustissimi oris ampullam vitream panem grandem immitteret, eumque extremis digitulis levare soleret illæsum, eoque solo quasi divinitus sibi cibo dato fuisset contenta *.

[16] Euseb. l. 5. c. 13. (v. 1. p. 225. 22.) Ἀπὸ τῆς τούτων ἀγέλης Ἀπελλῆς μὲν, ὁ τῇ πολιτείᾳ σεμνυνόμενος καὶ τῷ γήρᾳ, μίαν ἀρχὴν ὁμολογεῖ· τὰς δὲ προφητείας ἐξ ἀντικειμένου λέγει πνεύματος· πειθόμενος ἀποφθέγμασι παρθένου δαιμονώσης ὄνομα Φιλουμένης.

[17] Ibid. c. 16. (p. 230. 10.) Τῶν γὰρ κατὰ τὴν Ἀσίαν πιστῶν πολλάκις καὶ πολλαχῇ τῆς Ἀσίας εἰς τοῦτο συνελθόντων, καὶ τοὺς προσφάτους λόγους ἐξετασάντων καὶ βεβήλους ἀποφηνάντων καὶ ἀποδοκιμασάντων τὴν αἵρεσιν, οὕτω δὴ τῆς τε ἐκκλησίας ἐξεώθησαν, καὶ τῆς κοινωνίας εἴρχθησαν.

* [*Abest id totum*, say the Benedictine *Editors*, (ad calc. p. 9.) *a MSS., quod forte cum esset a quopiam in ora libri, non de Severo, sed de Apelle annotatum, librarii hallucinantes isthuc transtulerunt. De Apelle et ejusdem Philumene Tertullianus, Libr. de Præscript. cc. 6. et 30.*

The Severians, according to Augustine, forbade the use of wine, and rejected the doctrine of the resurrection of the flesh, as well as the Old Testament. Ed.]

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and agitation of Satan. St. Basil[18] appoints the same penance for those who profess *conjuration*, γοητείαν, as for those who are guilty of murder, that is, twenty years in several stations of repentance.

Of observation of days and accidents, and making presages and omens upon them.

8. There was one piece of superstition more, which the Ancients frequently censure as a breach of men's baptismal vow, and part of the pomp and service of Satan, which they professed to renounce in baptism. This was the observation of days and accidents, as lucky or unlucky, and making presages and omens upon them. St. Chrysostom has a large invective[19] against this sort of superstition. 'The pomps of Satan,' says he, 'are the theatre and the games of the circus, together with the observation of days, and presages, and omens. And what are omens? Why, suppose when a man goes first out of his doors, he meets a man that has but one eye, or is lame, he reckons this ominous or foreboding some ill fortune to him.

[18] C. 65. See before, s. 5. p. 252. latter part of n. 79.

[19] Hom. 21. ad Pop. Antioch. t. 1. p. 274. [al. Catheches. ad Illuminand. 2.] (t. 2. p. 243 b.) Πομπὴ δὲ Σατανικὴ ἐστι θέατρα, καὶ ἱπποδρομίαι, καὶ πᾶσα ἁμαρτία, καὶ παρατήρησις ἡμερῶν, καὶ κληδόνες, καὶ σύμβολα. Καὶ τί ποτέ ἐστι σύμβολά φησι; Πολλάκις ἐξελθών τις τὴν οἰκίαν τὴν ἑαυτοῦ, εἶδεν ἄνθρωπον ἑτερόφθαλμον, ἢ χωλεύοντα, καὶ οἰωνίσατο· τοῦτο πομπὴ Σατανική· οὐ γὰρ ἡ ἀπάντησις τοῦ ἀνθρώπου πονηρὰν ποιεῖ τὴν ἡμέραν γενέσθαι, ἀλλὰ τὸ ἐν ἁμαρτίαις ζῆν. Ὅταν τοίνυν ἐξέλθῃς, ἓν μόνον φύλαξαι, μὴ ἁμαρτία σοι ἀπαντήσῃ· αὕτη γάρ ἐστιν ἡ ἡμᾶς ὑποσκελίζουσα, χωρὶς δὲ ταύτης οὐδὲ ὁ Διάβολος ἡμᾶς βλάψαι δυνήσεται. Τί λέγεις; ἄνθρωπον ὁρᾷς, καὶ οἰωνίζῃ, καὶ οὐχ ὁρᾷς τὴν πάγην Διαβολικήν; πῶς ἐκπολεμοῖ σε τῷ μηδὲν ἠδικηκότι; πῶς ἐχθρόν σε καθίστησι τῷ ἀδελφῷ ἐξ οὐδεμιᾶς δικαίας προφάσεως; καὶ ὁ μὲν Θεὸς καὶ τοὺς ἐχθροὺς φιλεῖν ἐκέλευσε, σὺ δὲ καὶ τὸν οὐδὲν ἠδικηκότα ἀποστρέφῃ, μηδὲν ἔχων ἐγκαλεῖν· καὶ οὐκ ἐννοεῖς, πόσος ὁ γέλως, πόση αἰσχύνη, μᾶλλον δὲ πόσος ὁ κίνδυνος; Εἰπω καὶ ἕτερον καταγελαστότερον; Αἰσχύνομαι μὲν καὶ ἐρυθριῶ, ἀναγκάζομαι δὲ ὅμως διὰ τὴν ὑμετέραν σωτηρίαν εἰπεῖν· ἐὰν ἀπαντήσῃ παρθένος, φησὶν, ἄπρακτος ἡ ἡμέρα γίνεται· ἐὰν δὲ ἀπαντήσῃ πόρνη, δεξιὰ, καὶ χρηστὴ, καὶ πολλῆς ἐμπορίας γέμουσα. Ὅρα γοῦν καὶ ἐνταῦθα, πῶς τὸν δόλον ἔκρυψεν ὁ Διάβολος, ἵνα τὴν μὲν σώφρονα ἀποστεφώμεθα, τὴν δὲ ἀκόλαστον ἀσπαζώμεθα καὶ φιλῶμεν. . . . Τί ἂν τις εἴποι περὶ τῶν ἐπῳδαῖς καὶ περιάπτοις κεχρημένων, καὶ νομίσματα χαλκᾶ Ἀλεξάνδρου τοῦ Μακεδόνος ταῖς κεφαλαῖς καὶ τοῖς ποσὶ περιδεσμούντων; αὗται αἱ ἐλπίδες ἡμῶν; εἰπέ μοι, ἵνα μετὰ σταυρὸν καὶ θάνατον Δεσποτικὸν, κ. τ. λ.—See before, b. 11. ch. 7. s. 13. v. 4. p. 139. n. 9. —Conf. Hom. 23. In eos, qui Novilunia observant. See before, ch. ch. 4. s. 17, of this book, p. 226. n. 95.—Vid. etiam Comment. in Gal. 1. p. 973. (t. 10. p. 669 c.) Καὶ γὰρ Ἑλλήνων ἤθη πολλὰ παρά τισι τῶν ἡμετέρων φυλάττεται, κληδονισμοὶ, καὶ οἰωνισμοὶ, καὶ σύμβολα, καὶ ἡμερῶν παρατηρήσεις, καὶ ἡ περὶ τὴν γένεσιν σπουδὴ, καὶ τὰ πάσης ἀσεβείας γέμοντα γραμματεῖα, ἃ τικτομένων τῶν παιδίων εὐθέως ἐπὶ κακῷ τῆς ἑαυτῶν συντιθέασι κεφαλῆς, ἐκ προοιμίων παιδεύοντες καταλύειν τοὺς ὑπὲρ ἀρετῆς πόνους, καὶ ὑπὸ τὴν πεπλανημένην τυραννίδα τῆς εἱμαρμένης τόγε αὐτῶν ἄγοντες μέρος.

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This is part of the pomps of Satan. For the meeting of a man does not make the day evil, but the spending of it in sin. Keep from sin, and the Devil himself cannot hurt you: but if you make presages upon meeting of a man, you discern not the Devil's snare, who makes you without reason an enemy to one who has done you no harm. But there is one thing more ridiculous than this, which I am ashamed to speak, and yet I must mention for your salvation. If a man meets a virgin, he cries out presently, This will be a fruitless day with me! but if he meets an harlot, it will be a good and lucky day, and bring him in great gain and advantage. See how the Devil here hides his craft, to make us abhor a chaste and modest woman, and love an impudent harlot. But what shall a man say of those who use enchantments and ligatures, binding the brazen medals of Alexander the Great about their heads or feet? Are these, I pray, the hopes of a Christian, that after the cross and death of our Lord, we should place our hopes of salvation or health in the image of an Heathen king? Know you not what great things the cross has done? how it has destroyed death, abolished sin, taken away the force of hell and the grave, and dissolved the power of death? and canst thou not trust it for curing thy bodily distempers? It has raised the whole world from the dead, and canst thou not confide in it? But thou dost not only seek after such ligatures, but enchantments, entertaining old drunken and staggering women in thy house for this purpose. And the apology you make for so doing is worse than the error itself. The woman, say you, who makes the charm, is a Christian, and she does nothing but make use of the name of God. For that very reason I the more detest and abhor her, because she uses the name of God to dishonour and reproach it; because she is called a Christian, and does the works of an Heathen. The devils confessed the name of God, yet they were devils for all that: they said to Christ, We know thee, who thou art, the Holy One of God, yet notwithstanding he rebuked them and cast them out. Wherefore I beseech you, keep yourselves pure from this deceit, and let this word, I renounce thee, Satan! be your staff. As you would not go into the market without your shoes and clothes, so never go forth of your doors without first using this word,

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I renounce thee, Satan, and thy pomp and service, and I make a covenant with thee, O Christ! Go no where without this word, and it will be your staff, your armour, your impregnable tower. Join with this word the sign of the cross in your forehead, and so not only the meeting of any man, but the Devil himself cannot hurt you.'

St. Austin[20] gives a like caution against this sort of superstitious observations. 'To this kind,' says he, 'belong all ligatures and remedies, which the school of physicians reject and condemn, whether in enchantments, or in certain marks which they call characters, or in other things that are to be hanged and bound about the body, and kept in a dancing posture, not for any temperament of the body, but for certain significations either occult or manifest: which by a gentler name they call *physical*, that they may not seem to affright men with the appearance of superstition, but do good in a natural way: such are ear-rings hanged upon the tip of each ear, and rings made of an ostrich's bones for the fingers; or when you are told, in a fit of the convulsions or shortness of breath, to hold your left thumb with your right hand. To which may be

[20] De Doctrin. Christian. l. 2. c. 20. (t. 3. part 1. p. 31 e.) Ad hoc genus pertinent omnes etiam ligaturæ, atque remedia, quæ medicorum quoque disciplina condemnat, sive in præcantationibus, sive in quibusdam notis, quas characteres vocant; sive in quibusque rebus suspendendis atque illigandis, vel etiam aptandis quodammodo, non ad temperationem corporum, sed ad quasdam significationes aut occultas aut etiam manifestas: quæ mitiore nomine physica vocant, ut non quasi superstitione implicare, sed natura prodesse videantur: sicut sunt inaures in summo aurium singularum, aut de struthionum ossibus ansulæ in digitis, aut cum tibi dicitur singultienti, ut dextera manu sinistrum pollicem teneas. His adjunguntur millia inanissimarum observationum, si membrum aliquod salierit, si junctim ambulantibus amicis, lapis aut canis, aut puer medius intervenerit: atque illud quod lapidem calcant, tanquam diremptorem amicitiæ, minus molestum est, quam quod innocentem puerum colapho percutiunt, si pariter ambulantibus intercurrit. Sed bellum est, quod aliquando pueri vindicantur a canibus: nam plerumque tam superstitiosi sunt quidam, ut etiam canem, qui medius intervenerit, ferire audeant; non impune, namque a vano remedio cito ille interdum percussorem suum ad verum medicum mittit. Hinc sunt etiam illa: limen calcare, cum ante domum suam transit: redire ad lectum, si quis, dum se calciat, sternutaverit: redire domum, si procedens offenderit: cum vestis a soricibus roditur, plus tremere suspicione futuri mali, quam præsens damnum dolere. Unde illud eleganter dictum est Catonis, qui, cum esset consultus a quodam, qui sibi a soricibus errosas [al. corrosas] caligas diceret, respondit non esse illud monstrum, sed vere monstrum habendum fuisse, si sorices a caligis roderentur.—Conf. Enchirid. c. 79. (t. 6. p. 227 b.) .... Magnum peccatum dies observare et menses et annos et tempora, &c.

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added a thousand vain observations, as if any of our members beat; if, when two friends are walking together, a stone, or a dog, or a child happens to come between them: they tread the stone to pieces as the divider of their friendship; and this is tolerable in comparison of beating an innocent child that comes between them. But it is more pleasant, that sometimes the children's quarrel is revenged by the dogs; for many times they are so superstitious as to dare to beat the dog that comes between them, who, turning again upon him that smites him, sends him, from seeking a vain remedy, to seek a real physician indeed. Hence proceed likewise those other superstitions, for a man to tread upon his threshold when he passes by his own house: to return back to bed again if he chance to sneeze whilst he is putting on his shoes: to return into his house if he stumble at his going out: if the rats gnaw his clothes, to be more terrified with the suspicion of some future evil, than concerned for his present loss. He says, Cato gave a wise and smart answer to such an one who came in some consternation to consult him about the rats having gnawed his stockings: That, said he, is no great wonder, but it would have been a wonder indeed if the stockings had gnawed the rats.' St. Austin mentions the witty answer of a wise Heathen, to convince Christians the better of the unreasonableness and vanity of all such superstitious observations. And he concludes[21], 'that all such arts, whether of

[21] Ibid. c. 23. (p. 33 f, g.) Omnes igitur artes hujusmodi vel nugatoriæ vel noxiæ superstitionis, ex quadam pestifera societate hominum et dæmonum, quasi pacta quædam infidelis et dolosæ amicitiæ constituta, penitus sunt repudianda et fugienda Christiano: *Non quod idolum sit aliquid,* [ût] ait Apostolus, *sed quia quæ immolant, dæmoniis immolant, et non Deo: nolo autem vos socios dæmoniorum fieri.* Quod autem de idolis, et de immolationibus, quæ honori eorum exhibentur, dixit Apostolus, hoc de omnibus imaginariis signis sentiendum est, quæ vel ad cultum idolorum, vel ad creaturam ejusque partes tanquam Deum colendas trahunt, vel ad remediorum aliarumque observationem curam pertinent: quæ non sunt divinitus ad dilectionem Dei et proximi tanquam publice constituta, sed per privatas appetitiones rerum temporalium corda dissipant miserorum. In omnibus ergo istis doctrinis societas dæmonum formidanda atque vitanda est, qui nihil cum principe suo Diabolo nisi reditum nostrum claudere atque obserare conantur. Sicut autem de stellis, quas condidit et ordinavit Deus, humanæ et deceptoriæ conjecturæ ab hominibus institutæ sunt; sic etiam de quibusque nascentibus, vel quoquomodo divinæ providentiæ administratione exsistentibus rebus, multi multa humanis suspicionibus, quasi regulariter conjectata, literis mandaverunt, si forte insolite ac-

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trifling or more noxious superstition, are to be rejected and avoided by Christians, as proceeding originally from some pernicious society between men and devils, and being the compacts and agreement of such a treacherous and deceitful friendship. The Apostle forbids us to have fellowship with devils: and that, he says, respects not only idols and things offered to idols, but all imaginary signs pertaining to the worship of idols, and also all remedies and other observations which are not appointed publicly by God to promote the love of God and our neighbour, but proceed from the private fancies of men, and tend to corrupt the hearts of poor deluded mortals. For these things have no natural virtue in them, but owe all their efficacy to a presumptuous confederacy with devils: and they are full of pestiferous curiosity, tormenting anxiety, and deadly slavery. They were first taken up, not for any real power to be discerned in them, but gained their power by men's observing them. And therefore, by the Devil's art, they happen differently to different men, according to their own apprehensions and presumptions. For the great deceiver knows how to procure things agreeable to every man's temper, and ensnare him by his own suspicions and consent.'

As this is an excellent account of these superstitious observations, so it seems to intimate that some difference was made between the professors of these arts, and those who through ignorance were deluded by them: and therefore, though the former might fall under the severest discipline of the Church, yet the latter seemed rather to have been chastised by admonitions and rebukes, as here by St. Austin and St. Chrysostom, and not to have incurred the highest censure of

ciderint, tanquam si mula pariat, aut fulmine aliquid percutiatur. Quæ omnia tantum valent, quantum præsumptione animorum quasi communi quadam lingua cum dæmonibus fœderata sunt. Quæ tamen plena sunt omnia pestiferæ curiositatis, cruciantis solicitudinis, mortiferæ servitutis. Non enim quia valebant, animadversa sunt: sed animadvertendo atque signando factum est ut valerent. Et ideo diversio diverse proveniunt secundum cogitationes et præsumptiones suas. Illi enim spiritus, qui decipere volunt, talia procurant cuique, qualibus eum irretitum per suspiciones et consensiones ejus vident.—Vid. plura ap. Gratian. caus. 26. quæst. 7. c. 15. (t. 1. p. 1481. 74.) Admoneant sacerdotes fideles populos, ut noverint magicas artes, incantationesque, quibuslibet infirmitatibus hominum nihil remedii conferre, &c. —Conf. c. 16. (pp. 1482. 20.) Non observetis dies, qui dicuntur Ægyptiaci, aut Calendas Januarii, &c.

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excommunication, because of their simplicity, and perhaps because of the numbers of those who were daily inclined to mind such observations of days and accidents, without considering either the original of the superstition, or the mischief thereby done [22] to piety and religion.

I have insisted a little longer upon these things, because it is to be feared there is always reason for a serious caution against such superstitions, which are apt to creep upon unwary men in all ages of the Church.

CHAP. VI.

Of apostasy into Judaism and Paganism, of heresy and schism, sacrilege and simony.

Of such as apostatized totally from Christianity to Judaism.

1. Besides the forementioned crimes against the first and second commandments, there were a great many others worth our observance, as bringing men under the severest censures of the Church. Among these the disposition, which many showed toward the antiquated religion and ceremonies of the Jews, is often taken notice of by the Ancients in their accounts of Church discipline. And of these we may observe three sorts or degrees. Some entirely abandoned the Christian religion, and went totally over to the Jews; others mingled the Jewish ceremonies and some of their doctrines with the Christian religion; and others complied so far with them as to communicate with them in many of their unlawful practices, though they made no formal profession of their religion. Of the first sort was Aquila, the translator of the Bible, who at first was a Christian, as Epiphanius [23] informs us, till being expelled from the Church for adhering to astrology, he fled over to the Jews and took sanctuary among them, setting about a new translation of the Bible in spite to the Christians. And such were many in the days of Barchochab the great impostor, who com-

[22] [Consult Mr. Thier's Traité des Superstitions, ch. 23. Paris, 1679. (b. 4. ch. 3. pp. 248, &c. of the first volume of an edition of the Superstitions des Sacramens, Avignon, 1777, in four tomes, 12mo. viz. De l'observance des jours, des mois, des temps, et des années, &c.) —See also Mr. Bayle's Reflexions occasioned by a Comet, s. 89. (In French, Rotterdam, 1705. t. 2. p. 444.) Ed.]

[23] De Mensur. et Ponder. n. 15. See before, ch. 5. s. 1. p. 242. n. 41.

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pelled many Christians to deny and curse Christ, as Justin Martyr[24] acquaints us. Now, though the imperial laws allowed those that were originally Jews the freedom of their religion, and many privileges for a long time under the reigns of Christian Emperors, yet they severely prohibited any Christian going over to them, and laid very great penalties upon all such apostates. Constantine[25] left it to the discretion of the judges to punish such apostates with death, or any other condign punishment. His son Constantius[26] subjected them to confiscation of goods. And Valentinian Junior[27] laid upon them the penalty of being intestate, denying them and all other apostates the privilege of disposing of their estates by will. And, in compliance with these laws of the State, the Church, after she had anathematized such apostates, showed her detestation of them further in denying them the privilege of being accepted as credible witnesses in any of her courts of judicature. For he cannot be faithful to man, says the fourth Council of Toledo[28], who has been unfaithful to God. Therefore those Jews who were heretofore Christians, and now prevaricate from the faith of Christ, ought not to be admitted to give testimony, although they call themselves Christians, because, as they are suspected in the faith of Christ, so their credit ought to be questioned in human testimony. Therefore their evidence is of no force, seeing they have falsified in the faith; neither is any credit to be given to them, who have cast off the word of truth.

[24] Apol. 2. (p. 72 e.) *Καὶ γὰρ ἐν τῷ νῦν γεγενημένῳ Ἰουδαϊκῷ πολέμῳ, Βαρχωχέβας, ὁ τῆς Ἰουδαίων ἀποστάσεως ἀρχηγέτης, Χριστιανοὺς μόνους εἰς τιμωρίας δεινὰς, εἰ μὴ ἀρνοῖντο Ἰησοῦν τὸν Χριστὸν, καὶ βλασφημοῖεν, ἐκέλευεν ἀπάγεσθαι.*

[25] Cod. Theod. l. 26. tit. 8. de Judæis, leg. 1. (t. 6. p. 214.) .... Si quis vero ex populo ad eorum nefariam sectam accesserit, et conciliabulis eorum se applicaverit, cum ipsis pœnas meritas sustinebit.

[26] Ibid. leg. 7. (p. 223.) Si quis .... ex Christiano Judæus effectus, ... facultates ejus dominio fisci jussimus vindicari.

[27] Ibid. l. 16. tit. 7. de Apostatis, leg. 3. (p. 205.) Christianorum ad aras et templa migrantium, negata testandi licentia, vindicamus admissum. Eorum quoque flagitia puniantur, qui Christianæ religionis et nominis dignitate neglecta, Judaicis semet polluere contagiis.

[28] C. 63. [al. 64.] (t. 5. p. 1720 e.) Non potest erga homines esse fidelis, qui Deo exstiterit infidelis. Judæi ergo, qui dudum Christiani effecti sunt, et nunc in Christi fidem prævaricati sunt, ad testimonium dicendum admitti non debent, quamvis esse se Christianos annuntient: quia sicut in fide Christi suspecti sunt, ita in testimonio humano dubii habentur, &c.

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Of such as mingled the Jewish religion and the Christian together.

2. Another sort there were who did not wholly cast off the Christian religion, but made up a new religion for themselves by a mixture of both together. Such a miscellany was the heresy of the Nazarenes, and those of the Ebionites, and Cerinthians, and Elcesaites, and Sampseans, who observed circumcision and other rituals of the Jewish law, together with so much as they retained of the Christian; as may be seen in the accounts which St. Austin[29] and other ancient writers give of them. And Gothofred thinks the *Cœlicolæ*, who are specified and condemned in two or three laws of Honorius in the Theodosian Code, were a mongrel sect of the same nature. They joined circumcision and baptism together; agreeing both with Jews and Christians in rejecting idols and worshipping only heaven, that is, the God of heaven, whence they had the title of *Cœlicolæ;* but in this they agreed with the Jews only, that they rejected the doctrine of a Trinity in the Godhead, and only worshipped God in one person. In which respect the Sabellians also, and Paulianists, and Praxeans, and Theodotians, and Arians, and Photinians, who either denied the divinity of Christ, or confounded the three divine Persons into one, are commonly charged by the Ancients as flying back to Judaism in this point, whilst they subverted the true doctrine of the Christian Trinity by their heterodox innovations. It is particularly remarked by learned men[30] concerning Paulus

[29] De Hæres. c. 8. (t. 8. p. 7 d.) Cerinthiani a Cerintho, iidemque Merinthiani a Merintho, mundum ab angelis factum esse dicentes, et carne circumcidi oportere, atque alia hujusmodi Legis præcepta servari.—C. 9. (ibid. e.) Nazaræi, cum Dei Filium confiteantur esse Christum, omnia tamen Veteris Legis observant, quæ Christiani per apostolicam traditionem non observare carnaliter, sed spiritaliter intelligere, didicerunt —C. 10. (ibid. e, f.) Ebionæi Christum etiam ipsi tantummodo hominem dicunt. Mandata carnalia Legis observant, circumcisionem scilicet carnis, et cætera, a quorum oneribus per Novum Testamentum liberati sumus. Huic hæresi Epiphanius Sampsæos et Elcesæos ita copulat, ut sub eodem numero, tanquam una sit hæresis, ponat.—C. 22. (ibid. 11 b.) Elcesæos et Sampsæos hic tanquam ordine suo commemorat Epiphanius, quos dicit . . . cætera Ebionæis tenere similia.

[30] Maurice's Vindication, &c., or Answer to Baxter's Church Hist. (p. 287.) It was in short by way of comprehension, &c.—Baron. an. 265. n. 2. (t. 2. p. 607.) Erat Odenato conjux, insignis pudicitiæ atque prudentiæ in rebus agendis fœmina. Hanc fuisse Judæam sanctus Athanasius testari videtur, cum ait in Arianos: *Zenobia Judæa erat, et protectrix Pauli Samosateni; et tamen Judæis in synagogas ecclesias non tradidit.* Hæc quippe scientiis erudita, usa est in Græcis literis Longino præceptore; quod tradit Vopiscus: quem et Porphyrius lau-

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Samosatensis, that the true reason why he denied the divinity of Christ was to compliment Queen Zenobia, who was a Jewish proselyte: for he thought, that by reducing Christ to be a mere man, he might reconcile both religions, and take away the partition-wall that divided the Jews and Christians; nothing being so great an offence to the Jews as that Christ was owned by his disciples to be God. There was another sect which called themselves *Hypsistarians*, that is, *Worshippers of the Most High God*, whom they worshipped, as the Jews, only in one Person: and they observed their sabbaths, and used distinction of meats, clean and unclean; though they did not regard circumcision, as Gregory Nazianzen[31], whose father was once one of this sect, gives the account of them.

Now it is certain the Church never allowed any of these miscellaneous doctrines, or mongrel sects, but condemned them all as heretics, and excluded them from her communion. And the laws of the State were particularly severe against the *Cœlicolæ*, those who joined circumcision and baptism together, there being three laws of Honorius in the Theodosian Code directly formed against them. In the first of which[32] he ranks them with the Donatists, and Manichees, and Priscillianists, and Heathens; ordering all general penal laws against heretics to be put in execution against them; and particularly appointing 'that the houses of the *Cœlicolæ*, where that new sect held their conventicles, should with the rest be forfeited to the Church.' In the second[33], he calls them *the new audacious*

dibus celebrat. Sed et cupida Christianarum literarum, male consulta adscivit sibi magistrum Paulum Samosatenum, episcopum Antiochenum, hæreticum, de Christo abjecte nimis et humiliter sentientem, ac penitus Judaizantem, de quo Philastrius: *Hic verbum Dei, id est, Christum Deum, Dei Filium substantivum ad personalem et sempiternum esse cum Patre denegabat: prolativum autem, id est, quasi aërem quendam dicebat, non tamen personam vivam Filii sempiternam cum sempiterno Patre credendam esse docebat. Hic Christum hominem justum, non Deum verum prædicabat; Judaizans potius, qui et circumcisionem docebat: unde et Zenobiam quandam reginam in Oriente tunc temporis ipse docuit Judaizare.*

[31] Orat. 19. In Funere Patris. (t. 1. p. 289 b.) *Τῆς μὲν γὰρ εἴδωλα καὶ τὰς θυσίας ἀποπεμπόμενοι τιμῶσι τὸ πῦρ καὶ τὰ λύχνα· τῆς δὲ τὸ Σάββατον αἰδούμενοι, καὶ τὴν περὶ τὰ πράβατα ἔς τινα μικρολογίαν,* [al. *καὶ τὴν περὶ τὰ βρώματά ἐστιν ἃ μικρολογίαν,*] *τὴν περιτομὴν ἀτιμάζουσιν. Ὑψιστάριοι τοῖς ταπεινοῖς ὄνομα, καὶ ὁ Παντοκράτωρ δὴ μόνος αὐτοῖς σεβάσμιος.*

[32] Cod. Theod. l. 16. tit. 5. de Hæreticis, leg. 43. (t. 6. p. 164.) ... Ita ut ædificia vel horum, vel cœlicolarum etiam (quæ nescio cujus dogmatis novi conventus habent) ecclesiis vindicentur.

[33] Ibid. leg. 44. (p. 165.) Donatistarum hæreticorum, Judæorum nova

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sect of the Jews, which presumed to disturb the sacraments of the Church, because they rebaptized the Catholics, as the Donatists did. In the third[34], he styles them again, 'the new sect of the *Cœlicolæ*, who brought in an unheard of superstition.' And he threatens them, 'that unless within a year they returned to the service of God and the Christian worship, all the laws made against heretics should lay hold of them.' St. Austin also in one of his Epistles[35] mentions this sect of the *Cœlicolæ*, and intimates, that they joined with the Donatists in rebaptizing the Catholics. And that he means a sect which apostatized from the Christian to the Jewish religion, is evident from the title *majores*, given by him to their ministers: for by this title the Jewish ministers are frequently distinguished in the Theodosian Code[36]. So that it is plain, that this sect of the *Cœlicolæ* was a mixture of the Christian and Jewish religion together, and, as such, was both punished by the laws of the State, and rejected from communion by the laws of the Church.

Of such as communicated with the Jews in their unlawful rites and practices.

3. Besides these, there were some Christians who neither went over wholly to the Jews' religion, nor in any main point complied with them, who yet in some more remote rites and practices refused not to communicate with them, as in observing their festivals and feasting, and marrying with them, and receiving their *eulogiæ*, and having recourse to them for phylacteries and charms to cure diseases: all which therefore are condemned under the penalty of ecclesiastical censure. The Council of Laodicea[37] forbids Christians to Judaize by

atque inusitata detexit audacia, quod Catholicæ fidei velint sacramenta turbare, &c.

[34] L. 16. tit. 8. de Judæis, Cœlicolis, et Samaritanis, leg. 19. (p. 234.) Cœlicolarum nomen inauditum quodammodo novum crimen superstitionis vindicavit. Hi nisi infra anni terminos ad Dei cultum venerationemque Christianam conversi fuerint, his, legibus quibus præcepimus hæreticos adstringi, se quoque noverint attinendos.

[35] Ep. 163. p. 284. [al. 44. c. 6.] ad Eleusium. (t. 2. p. 106 f.) Jam miseramus ad majorem Cœlicolarum, quem audieramus novi apud eos baptismi institutorem instituisse, et multos illo sacrilegio seduxisse, &c.

[36] L. 16. tit. 8. de Judæis, Cœlicolis, &c., leg. 1. (t. 6. p. 214.) Judæis, et majoribus eorum et patriarchis volumus intimari, &c.—Leg. 23. (p. 240.) Annati didascalo et majoribus Judæorum.—Ibid. tit. 9. leg. 3. (p. 248.) Eadem inscriptio.

[37] C. 29. (t. 1. p. 1501 c.) Ὅτι οὐ δεῖ Χριστιανοὺς Ἰουδαΐζειν, καὶ ἐν τῷ Σαββάτῳ σχολάζειν, ἀλλὰ ἐργάζεσθαι αὐτοὺς ἐν τῇ αὐτῇ ἡμέρᾳ· τὴν δὲ Κυριακὴν προτιμῶντες, εἴγε δύναιντο, σχολάζειν ὡς Χριστιανοί. Εἰ δὲ εὑρεθεῖεν Ἰουδαΐσταὶ, ἔστωσαν ἀνάθεμα παρὰ Χριστῷ.

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resting on the Sabbath under pain of *anathema:* likewise it prohibits[38] keeping Jewish feasts and accepting festival-presents sent from them: as also receiving unleavened bread from them, which is accounted a partaking with them in their impiety. To the same purpose, among the Apostolical Canons we find one[39] forbidding to fast or feast with the Jews, or to receive any of their festival-presents, or unleavened bread, under the penalty of deposition to a clergyman, and excommunication to a layman. And by another of the same canons[40], to carry oil to a Jewish synagogue, or set up lights on their festivals, is paralleled with the crime of doing the like for an Heathen temple or festival, and both of them equally punished with excommunication. So a bishop, priest, or deacon, who celebrates the Easter-festival before the vernal equinox with the Jews[41], is to be deposed. Though this is a little more severe than the constitution that was made about it in the time of Irenæus, and afterwards was confirmed by Constantine[42] and the Council of Nice[43]: for they forbid the celebration of Easter with the Jews, but lay not the penalty of deposition, or

[38] C. 37. (ibid. p. 1504 b.) Ὅτι οὐ δεῖ παρὰ τῶν Ἰουδαίων ἢ αἱρετικῶν τὰ πεμπόμενα ἑορταστικὰ λαμβάνειν, μηδὲ συνεορτάζειν αὐτοῖς.—C. 38. (ibid. c.) Ὅτι οὐ δεῖ παρὰ τῶν Ἰουδαίων ἄζυμα λαμβάνειν, ἢ κοινωνεῖν τοῖς ἀσεβείαις αὐτῶν.

[39] C. 70. [al. 69.] (Cotel. [c. 62.] v. 1. p. 446.) Εἴ τις ἐπίσκοπος, ἢ ἄλλος κληρικὸς, νηστεύοι μετὰ τῶν Ἰουδαίων, ἢ ἑορτάζοι μετ' αὐτῶν, ἢ δέχεται [al. δέχοιτο] παρ' αὐτῶν τὰ τῆς ἑορτῆς ξένια, οἷον ἄζυμα, ἤ τι τοιοῦτον, καθαιρείσθω· εἰ δὲ λαϊκὸς, ἀφοριζέσθω. [The first part is differently worded in Labbe. Ed.]

[40] C. 71. [al. 70.] (Cotel. [c. 63.] ibid. c.) Εἴ τις Χριστιανὸς ἔλαιον ἀπενέγκοι εἰς ἱερὸν ἐθνῶν, ἢ εἰς συναγωγὴν Ἰουδαίων, ἢ ἐν ταῖς ἑορταῖς αὐτῶν, ἢ λύχνους ἅψῃ, ἀφοριζέσθω. [Somewhat differently worded in Labbe. Ed.]

[41] Ibid. c. 8. [al. 7.] (Cotel. [c. 5.] v. 1. p. 437.) Εἴ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, τὴν ἁγίαν τοῦ Πάσχα ἡμέραν πρὸ τῆς ἐαρινῆς ἰσημερίας μετὰ Ἰουδαίων ἐπιτελέσῃ, καθαιρείσθω.—Conf. Cod. Theod. l. 16. tit. 5. leg. 9. et tit. 6. leg. 6. de Protopaschitis. (t. 6. p. 124. sect. ult.) Quicunque in unum Paschæ diem non obsequenti religione convenerint, tales indubitanter, quales hac lege damnavimus, habeantur.—Conf. ibid. tit. 6. leg. 6. de Protopaschitis. (ibid. p. 200.) .... Sed si alio die, &c.

[42] Ep. ap. Euseb. de Vit. Constant. l. 3. cc. 18, 19. (v. 1. pp. 587–588.) *De consensu in celebratione Festi Paschalis, &c.*

[43] [Vid. Ep. ad Ecclesias Ægypti, Libyæ, et Pentapolis. (ap. Ed. Crabb. t. 1. p. 262. col. sinistr.) Evangelizavimus autem vobis et de consonantia sanctissimi Paschæ, quia vestris orationibus est correctum etiam hoc opus, ita ut omnes Orientales fratres, qui cum Judæis primitus celebrabunt, consonent cum Romanis; ut vobiscum, et cum omnibus ab initio Pascha custodientibus, ex hoc tempore debeant custodire.—Conf. Gelas. Hist. C. Nicæn. l. 2. c. 33. (ap. Labb. t. 2. p. 251 b, c.) Lætum enim nuntium vobis afferimus de consensu, &c. Ed.]

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excommunication upon those that followed that custom, because they had some pretence of apostolical tradition for their practice. The Council of Eliberis[44] forbids Christians to have recourse to the Jews for blessing the fruits of the earth, and that under the penalty of excommunication, because it was a reproach to the manner of blessing them in the Church, as if that was weak and ineffectual. The same Council[45] forbids both clergy and laity to eat with the Jews, upon pain of being cast out of the Church. And the reason of this is assigned by the Council of Agde[46]; 'because they use not the meats that are commonly used among Christians, therefore it is an unworthy and sacrilegious thing to eat with them: forasmuch as they reputed those things unclean which the Apostle allows us to receive; and so Christians are rendered inferior to the Jews, if we eat of such things as they set before us, and they contemn what we offer them.' Which canon is repeated in the same words in the Council of Vannes[47], and there is a rule in the Council of Epone[48] to the same purpose. It appears also from the fourth Council of Toledo that the Spanish Churches were much infested with this sort of complying and Judaizing Christians; some patronising the Jews in their perfidiousness; others turning downright apostates, and submit-

[44] C. 49. (t. 1. p. 976 a.) Admoneri placuit possessores, ut non patiantur fructus suos, quos a Deo percipiunt [cum gratiarum actione], a Judæis benedici, ne nostram irritam et infirmam faciant benedictionem. Si quis post interdictum facere usurpaverit, penitus ab ecclesia abjiciatur.

[45] C. 1. (ibid. b.) Si vero [ali]quis clericus vel fidelis [fuerit, qui cum] Judæis cibum sumpserit, placuit eum a communione abstinere, ut debeat emendari.

[46] C. 40. (t. 4. p. 1390 a.) Omnes deinceps clerici sive laici Judæorum convivia evitent; nec eos ad convivium quisquam excipiat: quia cum apud Christianos cibis communibus non utantur, indignum est atque sacrilegum eorum cibos a Christianis sumi; cum ea, quæ Apostolo permittente nos sumimus, ab illis judicentur immunda; ac sic inferiores incipiant esse Christiani quam Judæi, si nos, quæ ab illis apponuntur, utamur, illi vero a nobis oblata contemnant.

[47] C. 12. (ibid. p. 1056 c.) Omnes, &c.

[48] C. 15. (ibid. p. 1578 a.) A Judæorum conviviis etiam laicos constitutio nostra prohibuit; nec cum ullo clerico nostro panem comedat, quisquis Judæorum fuerit convivio inquinatus.—Conf. C. Matiscon. 1. c. 15. (t. 5. p. 969 e.) Ut nullus Christianus Judæorum conviviis participare præsumat. Quod si facere quicunque, quod nefas est dici, clericus aut sæcularis præsumpserit, ab omnium Christianorum consortio se noverit compescendum, quisquis eorum impietatibus fuerit inquinatus. —C. Aurelian. 3. c. 13. (ibid. p. 299 d.) Item Christianis convivia interdicimus Judæorum; in quibus si forte fuisse probantur, annuali excommunicationi pro hujusmodi contumacia subjacebunt.

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ting to circumcision; and others indifferently conversing with them to the manifest danger of their own subversion. Against which last sort of compliers the sixty-first canon of that Council[49] is particularly directed; and there are six or seven canons more in the same place one after another relating to cases of the like nature, which need not here be related. The Council of Clermont[50] makes it excommunication for a Christian to marry a Jew. And the third Council of Orleans[51] prohibits it under the same penalty, together with sequestration of the persons from each other.

St. Chrysostom[52] inveighs against those who went out of curiosity to the Jewish synagogues, saying, it was the same thing as going to an idol-temple: 'If any one sees thee, who hast knowledge, go to a synagogue to see the trumpets, shall not the conscience of him that is weak be emboldened to admire the Jewish ceremonies? Although there be no idol there, yet the devils inhabit the place. Which I say not only of the synagogue which is here, but that of Daphne, that more im-

[49] [C. Tolet. 4. c. 61. juxt. Ed. Crabb. (t. 2. p. 204.) juxt. Labb. c. 62. (t. 5. p. 1720 c.) Sæpe malorum consortia etiam bonos corrumpunt, quanto magis eos, qui ad vitia proni sunt. Nulla igitur ultra communio sit Hebræis ad fidem Christianam translatis cum his, qui adhuc in vetere ritu consistunt, ne forte eorum participatione [al. participio] subvertantur. Ed.]

[50] C. 6. (t. 4. p. 1804 e.) Si quis Judaicæ pravitati jugali societate conjungitur, et seu Christiana Judæo, seu Judæus Christianæ mulieri carnali consortio misceatur, quicunque horum tantum nefas admisisse dignoscitur, a Christianorum cœtu atque convivio et communione ecclesiæ, cujus sociatur hostibus, segregetur.

[51] C. 13. (t. 5. p. 299 c.) Christianis quoque omnibus interdicimus, ne Judæorum conjugiis misceantur: quod si fecerint, usque ad sequestrationem, quisquis ille est, communione pellatur.—Conf. Augustin. Ep. 234. [al. 255.] ad Rustic. (t. 2. p. 882 b.).... Cum certissime noveris, etiam si nostræ absolutæ sit potestatis, quamlibet puellam in conjugium tradere, tradi a nobis Christianam nisi Christiano non posse.

[52] Hom. 1. cont. Judæos. t. 1. p. 442. [juxt. Ed. Savil. Hom. 6.] (t. 1. p. 595 a, d.).... *Ἐάν τις ἴδῃ σε τὸν ἔχοντα γνῶσιν εἰς συναγωγὴν ἀπερχόμενον, καὶ σάλπιγγας θεωροῦντα, οὐχὶ ἡ συνείδησις αὐτοῦ ἀσθενοῦς ὄντος οἰκοδομηθήσεται εἰς τὸ θαυμάζειν τὰ Ἰουδαϊκὰ πράγματα;.... Εἰ γὰρ μὴ εἴδωλον ἔστηκεν ἐκεῖ· ἀλλὰ δαίμονες οἰκοῦσι τὸν τόπον· καὶ τοῦτο οὐ περὶ τῆς ἐνταῦθα λέγω συναγωγῆς μόνον, ἀλλὰ καὶ τῆς ἐν Δάφνῃ· πονηρότερον γὰρ ἐκεῖ τὸ βάραθρον, ὃ δὴ καλοῦσι Ματρώνης. Καὶ γὰρ πολλοὺς ἤκουσα τῶν πιστῶν ἀναβαίνειν ἐκεῖ, καὶ παρακαθεύδειν τῷ τόπῳ· ἀλλὰ μὴ γένοιτό ποτε τούτους πιστοὺς προσειπεῖν· ἐμοὶ καὶ τὸ Ματρώνης καὶ τοῦ Ἀπόλλωνος ἱερὸν, ὁμοίως ἐστὶ βέβηλον· εἰ δέ τίς μου τόλμαν καταγινώσκει, πάλιν ἐγὼ τὴν ἐσχάτην αὐτοῦ καταγνώσομαι μανίαν. Εἰπέ γάρ μοι, ὅπου δαίμονες οἰκοῦσιν, οὐχὶ ἀσεβείας χωρίον ἐστὶ, κἂν μὴ ξόανον εἱστήκει; ὅπου Χριστοκτόνοι συνέρχονται, ὅπου σταυρὸς ἐλαύνεται, ὅπου βλασφημεῖται Θεὸς, ὅπου Πατὴρ ἀγνοεῖται, ὅπου Υἱὸς ὑβρίζεται, ὅπου Πνεύματος ἀτεθεῖται χάρις;*

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pure pit of hell, which they call *Matrona.* I hear many of the faithful go thither, and sleep in the place. But God forbid I should call them the faithful. For the temple of Apollo and Matrona are equally profane. Is not that a place of impiety where devils dwell, although there be no image there? Where the murderers of Christ assemble, where the cross is cast out, where God is blasphemed, where the Father is not known, where the Son is reviled, where the grace of the Spirit is rejected?' He particularly bewails those[53] who went either to see or join with them in the celebration of their fasts and festivals, the Feast of Trumpets, the Feast of Tabernacles, and the Fast of the Great Day of Expiation, which came all in the month Tisri, or September, when he preached his sermons against the Jews. He notes also the wickedness of some[54], who would draw others by force to go and take an oath in a Jewish synagogue, upon a most unaccountable persuasion, that an oath given there was more formidable than any other whatsoever. For these and many other reasons, which he there[55] largely pursues, he styles all such only *Half-Christians,* Χριστιανοὶ ἐξ ἡμισείας.

He has two other whole Sermons[56] against those who observed the Jewish fasts, and frequented their synagogues: in the latter of which[57] he addresses himself to them in these words: 'We have now clearly proved that the places, where the Jews assemble, are inhabited by devils. How then darest thou, after being in the chorus of devils, return to the assembly

[53] Ibid. t. 1. p. 433. (p. 588 a.) Ἑορταὶ τῶν ἀθλίων καὶ ταλαιπώρων Ἰουδαίων μέλλουσι προσελαύνειν συνεχεῖς καὶ ἐπάλληλοι, αἱ Σάλπιγγες, αἱ Σκηνοπηγίαι, αἱ Νηστεῖαι· καὶ πολλοὶ τῶν μεθ' ἡμῶν τεταγμένων, καὶ τὰ ἡμέτερα λεγόντων φρονεῖν, οἱ μὲν ἐπὶ τὴν θέαν ἀπαντῶσι τῶν ἑορτῶν, οἱ δὲ καὶ συνεορτάζουσι· καὶ τοῦτο τὸ πονηρὸν ἔθος βούλομαι τῆς ἐκκλησίας ἀπελάσαι νῦν.

[54] Ibid. p. 437. (p. 591 a, c.) Καὶ γὰρ πρὸ τούτων τῶν τριῶν ἡμερῶν, πιστεύσατε, οὐ ψεύδομαι, γυναῖκά τινα εὐσχήμονα καὶ ἐλευθέραν, κοσμίαν καὶ πιστὴν, εἶδον ἀναγκαζομένην ὑπό τινος μιαροῦ καὶ ἀναισθήτου, δοκοῦντος εἶναι Χριστιανοῦ· οὐ γὰρ ἂν εἴποιμι τὸν τὰ τοιαῦτα τολμῶντα Χριστιανὸν εἰλικρινῆ, εἰς τὰ τῶν Ἑβραίων εἰσελθεῖν, κἀκεῖ παρασχεῖν ὅρκον περὶ τῶν ἀμφισβητουμένων αὐτῷ πραγμάτων'...ὁ δὲ πολλοὺς ἔφη πρὸς αὐτὸν εἰρηκέναι, φοβερωτέρους τοὺς ἐκεῖ γενομένους ὅρκους εἶναι.

[55] Ibid. p. 440. (p. 593 b.) Ποίαν ἕξεις συγγνώμην, Χριστιανὸς ὢν ἐξ ἡμισείας;

[56] Hom. 52. In eos, qui Pascha jejunant. [juxt. Ed. Bened. adv. Jud. Hom. 3.] (ibid. p. 615 b.) Ἐννόησον πῶς διαβολικῆς τοῦτό ἐστιν εὐεργείας, κ. τ. λ.—Hom. liii. In eos, qui cum Judæis jejunant. [juxt. Ed. Bened. adv. Jud. Hom. 2.]

[57] T. 5. p. 721. (ibid. p. 605 a, b.) Οὐκ ἤκουσας ἐν τῇ προτέρᾳ διαλέξει σαφῶς ἀποδείξαντος ἡμῖν τοῦ λόγου,

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of the Apostles? How is it that thou art not afraid, after communicating with those who shed the blood of Christ, to come and communicate at the holy table, and partake of that precious blood? Does not horror and trembling seize thee after having committed so great a wickedness? Dost thou not reverence the holy table? Wherefore, I exhort you, admonish and edify one another. If any man be a catechumen, who labours under this distemper, let him be driven from the doors of the church: if he be one of the faithful, and initiated in the holy mysteries, let him be driven from the holy table. All sins need not exhortation and counsel: there are some that naturally require a more quick and sharp abscission. I therefore from henceforth shall abstain from all further admonition, and protest and proclaim, If any man love not the Lord Jesus Christ, let him be *anathema!* And what greater argument can there be of any one's not loving Christ, than his communicating with those in their festivals who killed Christ? It is not I that anathematize these, but Paul; yea Christ that speaks by Paul, and says, "Whoever of you are justified by the law, ye are fallen from grace."' In his comment upon those words of St. Paul to Titus[58], "Rebuke them sharply, that they may

ὅτι καὶ τὰς ψυχὰς αὐτὰς τῶν Ἰουδαίων καὶ τοὺς τόπους, ἐν οἷς συλλέγονται, δαίμονες κατοικοῦσι; Πῶς οὖν, εἰπέ μοι, τολμᾶς μετὰ δαιμόνων χορεύσας πρὸς τὸν τῶν Ἀποστόλων σύλλογον ἐπανελθεῖν; Πῶς δὲ οὐ φρίττεις ἀπελθὼν καὶ κοινωνήσας ἐκείνοις, τοῖς τὸ αἷμα ἐκχέουσι τοῦ Χριστοῦ, ἐλθεῖν καὶ κοινωνῆσαι τῆς ἱερᾶς τραπέζης, καὶ τοῦ αἵματος μετασχεῖν τοῦ τιμίου; Οὐ φρίττεις, οὐ δέδοικας τοιαῦτα παρανομῶν; Τὴν τράπεζαν αὐτὴν οὐκ αἰδῇ; Ταῦτα πρὸς ὑμᾶς ἐγὼ διελέχθην, ταῦτα πρὸς ἐκείνους ὑμεῖς, κἀκεῖνοι πρὸς τὰς ἑαυτῶν γυναῖκας· Εἴς τὸν ἕνα οἰκοδομεῖτε. Κἂν μὲν κατηχούμενος ᾖ ὁ τὰ τοιαῦτα νοσῶν, τῶν προθύρων εἰργέσθω· ἂν δὲ πιστὸς καὶ μεμυημένος, τῆς ἱερᾶς τραπέζης ἀπελαυνέσθω· οὐ γὰρ πάντα τὰ ἁμαρτήματα παραινέσεως δεῖται καὶ συμβουλῆς, ἀλλ' ἔστιν ἃ τομῇ συντόμῳ καὶ ὀξυτάτῃ διορθοῦσθαι πέφυκε. Καὶ καθάπερ τῶν τραυμάτων τὰ μὲν ἀνεκτότερα προσηνεστέροις εἴκει φαρμάκοις, τὰ δὲ σεσηπότα καὶ ἀνίατα καὶ τὸ λοιπὸν ἐπινεμόμενα σῶμα, αἰχμῆς σιδήρου δεῖται καὶ φλογός· οὕτω δὴ καὶ ἐπὶ τῶν ἁμαρτημάτων, τὰ μὲν παραινέσεως μακροτέρας χρείαν ἔχοντα, τὰ δὲ ἐλέγχων ἀποτόμων. Διόπερ καὶ ὁ Παῦλος ἐκέλευσε μὴ πάντα παραινεῖν, ἀλλὰ καὶ ἐλέγχειν ἀποτόμως, οὕτω λέγων, Δι' ἣν αἰτίαν ἔλεγχε αὐτοὺς ἀποτόμως· ἐλέγξωμεν οὖν αὐτοὺς ἀποτόμως νῦν, ἵνα ἐπὶ τοῖς φθάσασιν αἰσχυνθέντες καὶ καταγνόντες ἑαυτῶν, μηκέτι τὴν ἀπὸ τῆς παρανόμου νηστείας δέξωνται λύμην. Διὰ ταῦτα καὶ ἐγὼ τὴν παραίνεσιν λοιπὸν ἀφεὶς, μαρτύρομαι καὶ βοῶ· Εἴ τις οὐ φιλεῖ τὸν Κύριον Ἰησοῦν Χριστὸν, ἔστω ἀνάθεμα. Τοῦ δὲ μὴ φιλεῖν τὸν Κύριον τί μεῖζον ἂν γένοιτο τεκμήριον, ἀλλ' ἢ ὅταν τοὺς ἀποκτείνοντας αὐτὸν κοινωνοὺς ἔχῃ τις τῆς ἑορτῆς; τούτους οὐκ ἐγὼ ἀνεθεμάτισα, ἀλλὰ Παῦλος· μᾶλλον δὲ οὐδὲ Παῦλος, ἀλλ' ὁ Χριστὸς, ὁ δι' ἐκείνου λαλῶν, καὶ ὁ ἐν τοῖς ἔμπροσθεν εἰπὼν, Ὅτι ἐν νόμῳ δικαιούμενοι τῆς χάριτος ἐξέπεσον.

[58] Hom. 3. in Tit. p. 1709. (t. 11.

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be sound in the faith," he speaks again of this matter: 'If they who make a distinction of meats are not sound, but weak, what shall we say of those who fast with the Jews, and observe their sabbaths with them, and go to their synagogues, to that at Daphne, called *the cave of Matrona*, and that in Cilicia, called *the place of Tropus*, or *Saturn?*'

In his sixth Homily against the Jews[59], he inveighs vehemently against those who went to the synagogues to get charms and amulets to cure diseases, in which the Jews pretended to a peculiar art above others, and this tempted many vain Christians to have recourse to them: but of this I have spoken before in the last chapter out of Chrysostom[60], and shall only here add, that the Jews boasted much of this art as coming to them from some apocryphal writings of King Solomon, such as his Book of Prayers, or Enchantments to cure Diseases, and his Book of Exorcisms, or Conjurations to cast out Devils, both which are mentioned by Josephus[61], who magnifies the art as still remaining among them, speaking of one Eleazer, who, according to the rules there prescribed, pretended to cure one possessed with a devil in the presence of Vespasian. Origen[62] also mentions these books, and says some

p. 746 c.) Εἰ δὲ οἱ βρώματα ἐπιτηροῦντες οὐχ ὑγιαίνουσιν, ἀλλὰ νοσοῦσι καὶ ἀσθενοῦσι, ... τί ἂν εἴποιμι [al. εἴποι τις] περὶ τῶν τὰ αὐτὰ νηστευόντων αὐτοῖς; περὶ τῶν σαββατιζόντων; περὶ τῶν εἰς τόπους ἀπερχομένων ἐκείνοις ἀφιερωμένους; τὸν ἐν Δάφνῃ λέγω, τὸ τῆς Ματρώνης λεγόμενον σπήλαιον, τὸν ἐν Κιλικίᾳ τόπον, τὸν τοῦ Κρόνου λεγόμενον.

[59] Hom. 6. in Judæos. t. 1. p. 536, &c. See before, ch. 5. s. 6. p. 254. n. 87.

[60] [Hom. 21. ad Pop. Antioch. al. Cateches. ad Illuminand. 2. See ch. 5. s. 8. p. 265. n. 19; especially the latter clauses of the first portion of that note. Ed.]

[61] Antiquit. l. 8. c. 11. n. 5. (v. 1. p. 339. 13.) Παρέσχε δ' αὐτῷ μαθεῖν ὁ Θεὸς καὶ τὴν κατὰ τῶν δαιμόνων τέχνην εἰς ὠφέλειαν καὶ θεραπείαν τοῖς ἀνθρώποις· ἐπῳδάς τε συνταξάμενος, αἷς παρηγορεῖται τὰ νοσήματα, καὶ τρόπους ἐξορκώσεων κατέλειπεν· οἷς ἐνδούμενα τὰ δαιμόνια ὡς μηκέτ' ἐπανελθεῖν ἐκδιώκουσι. Καὶ αὕτη μέχρι νῦν παρ' ἡμῖν ἡ θεραπεία πλεῖστον ἰσχύει. Ἱστόρησα γάρ τινα Ἐλεάζαρον τῶν ὁμοφύλων, Οὐεσπασιανοῦ παρόντος καὶ τῶν υἱῶν αὐτοῦ, καὶ χιλιάρχων καὶ ἄλλου στρατιωτικοῦ πλήθους, τοὺς ὑπὸ τῶν δαιμονίων λαμβανομένους ἀπολύοντα τούτων. Ὁ δὲ τῆς θεραπείας τρόπος τοιοῦτος ἦν. Προσφέρων ταῖς ῥισὶ τοῦ δαιμονιζομένου τὸν δακτύλιον, ἔχοντα ὑπὸ τῇ σφραγίδι ῥίζαν ἐξ ὧν ὑπέδειξε Σολομών, ἔπειτα ἐξεῖλκεν ὀσφραινομένῳ διὰ τῶν μυκτήρων τὸ δαιμόνιον· καὶ, πεσόντος εὐθὺς τοῦ ἀνθρώπου, μηκέτ' εἰς αὐτὸν ἐπανελθεῖν ὥρκου, Σολομῶνός τε μεμνημένος, καὶ τὰς ἐπῳδὰς, ἃς συνέθηκεν ἐκεῖνος, ἐπιλέγων.

[62] Tractat. 35. [al. Comment. Series, n. 110.] in Matth. p. 188. (t. 3. p. 910 f.) .... Non est secundum potestatem datam a Salvatore adjurare dæmonia: Judaicum enim est. Hoc etsi aliquando a nostris tale aliquid fiat, simile fit ei, quod a Salomone scriptis adjurationibus solent

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Christians abjured devils after the same manner by forms out of Apocryphal and Hebrew books, in imitation of those of Solomon, which he does by no means allow, but says it is Judaical, and not according to the power given by Christ to his disciples. By all which it appears, that as the Jews pretended much to this power, so many Christians were so vain as to have secret recourse to them, (for Chrysostom says they were ashamed to do it in public,) imagining their enchantments to be of more efficacy than any others. Which was a double crime, first to make use of charms, and then to take them from the enemies of Christ, to the flagrant scandal of the Christian religion. Whenever therefore any were convicted of this crime, they were sure to feel the utmost severity of ecclesiastical censure.

Of such as apostatized voluntarily into Heathenism.

4. Another sort of apostates were such as fell away voluntarily into Heathenism, after they had for some time made profession of Christianity. These differed from common lapsers into idolatry in this, that the common lapsers fell by violence, and the fear and terror of persecution; but these fell away by principle and choice, and out of a dislike to religion and love of Gentilism, which they preferred before the religion of Christ, when they might without any molestation have continued in it. And as the one usually returned as soon as they had opportunity, so the other commonly continued apostates all their days. The imperial laws, at least from the time of Theodosius, denied such the common privilege of Roman subjects, depriving them of the power of disposing of their estates by will. As appears from two laws of Theodosius the Great in the Theodosian Code[62], which the other succeeding emperors confirmed. Particularly Valentinian Junior[63] not only denied

dæmones adjurari. Sed ipsi, qui utuntur adjurationibus illis, aliquoties nec idoneis constitutis libris utuntur. Quibusdam autem et de Hebræo acceptis adjurant dæmonia.

[62] L. 16. tit. 7. de Apostatis, leg. 1. (t. 6. p. 203.) His, qui ex Christianis Pagani facti sunt, eripiatur facultas jusque testandi. Omne defuncti, si quod est, testamentum, submota conditione, rescindatur.—Leg. 2. (ibid. p. 204.) Christianis ac fidelibus, qui ad Paganos ritus cultusque migrarunt, omnem in quamcunque personam testamenti condendi interdicimus potestatem, ut sint absque jure Romano.—Conf. ibid. legg. 3, 4, 5, 6, 7.

[63] Ibid. leg. 4. (p. 207.) Hi, qui sanctam fidem prodiderint et sanctum baptisma profanaverint, a consortio omnium segregati, sint a testimoniis alieni, ... testamenti non habeant factionem: nulli in hæreditate succedant, a nemine scribantur hæredes. Quos etiam præcepisse-

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them the power of making their own wills, but of receiving any benefit from others by will: no man might make them his heirs, nor could they succeed to any inheritance. They were to have no commerce or society with others; their testimony was not to be taken in law; they were to be infamous and of no credit among men, among whom they were allowed to live without banishing, only to make it the greater punishment to live among men, and not enjoy the common privileges of men. Nay, they were never to regain their ancient state; though they repented and returned, this should be no benefit to them in this respect; their repentance should never obliterate their crime, because they had broken their faith to God. This was their condition in temporals. As to their spiritual estate, by some canons of the Church they were as severely treated.

The Council of Eliberis[64] denies communion to the last to all such apostates, because they doubled their crime, not only in absenting from the Church, but in defiling themselves with idolatry also. Whereas such lower apostates as only absented themselves from religious assemblies for a long time[65], and did not commit idolatry, if afterward they returned again to the Church they might be admitted upon ten years' penance to the communion. Cyprian[66] says, many of his predecessors in Afric denied communion to the very last to all such as were

mus procul abjici, ac longius amandari, nisi *pœnæ* visum fuissent *esse majoris, versari inter homines, et hominum carere suffragiis.* Sed nec unquam in statum pristinum revertentur; non flagitium morum obliteretur pœnitentia, &c.—Leg. 5. (p. 208.) Si quis splendor collatus est in eos... perdant, ut de loco suo statuque dejecti, perpetua urantur infamia, &c.—Leg. 6. (p. 210.)... Eos, qui cum essent Christiani, idolorum se superstitione impia maculaverint, hæc pœna persequitur, ut testandi in alienos non habeant facultatem, &c.—Leg. 7. (p. 211.) Apostatarum sacrilegum nomen singulorum vox continuæ accusationis incesset, et nullis finita temporibus hujuscemodi criminis arceatur indago, &c.—Ibid. l. 11. tit. 39. de Fide Testium, leg. 11. (t. 4. p. 332.) Hi, qui sanctam fidem prodiderint et sacrum baptisma profanarint, a consortio omnium segregati, sint a testimoniis alieni, &c.

[64] C. 1. (t. 1. p. 969 e.) Placuit inter eos, qui post fidem baptismi salutaris adulta ætate et templum idololatraturus accesserit, et fecerit quod est crimen principale, quia est summum scelus, nec in fine eum communionem accipere.

[65] C. 46. (ibid. p. 975 d.) Si quis fidelis apostata per infinita tempora ad ecclesiam non accesserit; si tamen aliquando fuerit reversus, nec fuerit idololatra, post decem annos placuit communionem accipere.

[66] Ep. 52. [al. 55.] ad Antonian. p. 110. See before, ch. 4. s. 5. p. 204. n. 22. Et quidem, &c.

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guilty of the three great crimes, apostasy, adultery, and murder. And though this rigour was a little abated in his time, yet they still held idolatrous apostates to penance all their lives. Which is also noted by Siricius[67], bishop of Rome, who says 'apostates were to do penance as long as they lived, and only to have the grace of reconciliation at the point of death.' And this favour was allowed them only upon proviso, that they returned and submitted to penance voluntarily in their lifetime, before any necessity or sickness drove them to it: for if they continued apostates to the last extremity, and only desired to be reconciled when the fear of imminent death was upon them, then Cyprian[68] assures us it was denied them; because it was not repentance, but the fear of approaching death only that made them desire a reconciliation. And the first Council of Arles made a like decree[69], that such apostates should not be received to communion unless they recovered and brought forth fruits worthy of repentance. The true reason of which severity was to deter men from depending too much on a death-bed repentance. For except in the case of martyrdom, which Cyprian[70] allows, such apostates had no time to demonstrate by their works that they were real penitents; and therefore the Church denied them absolution[71], and remitted them wholly to God's unerring judgment.

[67] Ep. 1. ad Himerium, c. 3. (CC. t. 2. p. 1018 e.)... His [apostatis], quamdiu vivunt, agenda pœnitentia est, &c.—See before, ch. 4. s. 5. p. 203. n. 19.

[68] Ep. ad Antonian. p. 111. See as before, p. 204, the last clause of n. 23.

[69] C. 23. See before, ibid. n. 24.

[70] De Lapsis, p. 127. (p. 91.) Sic hic Casto et Æmilio aliquando Dominus ignovit: sic in prima congressione devictos, victores in secundo prælio reddidit, ut fortiores ignibus fierent, qui ignibus ante cessissent; et unde superati essent, inde superarent. Deprecabantur illi non lacrymarum miseratione, sed vulnerum; nec sola lamentabili voce, sed laceratione corporis et dolore. Manabat pro fletibus sanguis, et pro lacrymis cruor semiustulatis visceribus defluebat, &c.

[71] [Vid. Ep. 14. [al. 19.] (p. 198.) Satis plene scripsisse me ... credo, ut qui libellum a martyribus acceperint et auxilio eorum adjuvari apud Dominum in delictis suis possunt, si premi infirmitate aliqua et periculo cœperint, exomologesi facta, et manu eis a vobis in pœnitentia imposita, cum pace a martyribus ibi promissa ad Dominum remittatur. Cæteri vero ... expectent de Domini protectione ecclesiæ ipsius publicam pacem.—Conf. Ep. 52. [al. 55.] ad Antonian. p. 102. (p. 248.) ... Pœnitentiam non agentes, nec dolorem delictorum suorum toto corde et manifesta lamentationis suæ professione testantes, prohibendos omnino censuimus a spe communicationis et pacis, si in infirmitate atque in periculo cœperint deprecari: quia rogare illos non delicti pœnitentia, sed mortis urgentis admonitio compellit, &c. Ed.]

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Of heretics and schismatics, and their punishments, both ecclesiastical and civil.

5. The next sort of delinquents against the First Commandment were heretics and schismatics, the one of which transgressed against the doctrine of faith delivered by the Church, and the other against the unity of the worship and discipline, which compacted the Church into one mystical body of Christ. In each of these there were several degrees of sin, which were accordingly treated with different degrees of ecclesiastical censure. But because it was impossible for lawgivers to know the particular motives and inducements that might engage men in heresy or schism, therefore the laws were made in general terms against them, and the allowances that were proper to be made upon any occasion for the abatement of the rigour of them, with respect to particular persons, were left to the discretion of the judges that were to put them in execution.

I shall first give a short account of the civil penalties that were inflicted on them by the imperial laws of the State, and then consider the ecclesiastical punishments that were inflicted on them by the laws of the Church.

Of the civil punishments inflicted on them by the laws of the State.

6. The laws of the State made against heretics and schismatics by the Christian emperors from the time of Constantine, are chiefly comprised under one title, *De Hæreticis*, in the Theodosian Code, which are too many and long to be here recited: therefore I shall only give a short abstract of them as they are collected by Gothofred[72] in his premonition to that title. There he observes eleven distinct kinds of punishment inflicted on them in general, besides the particular laws that were made against their teachers, their bishops and clergy, and their conventicles, and all such as favoured or abetted them.

The first of these is the general note of infamy affixed to them all in common: the laws always styling them infamous persons. *De Hæreticis*, legg. 7, 13, 54. *De Fide Catholica*, leg. 2.

Secondly, the affixing on some particular sects special names of infamy and reproach; as when Constantine ordered the Arians to be called *Porphyrians;* and Theodosius Junior, the Nestorians to be branded with the name of *Simonians*. *De Hæreticis*, leg. 66.

[72] Paratitl. ad Cod. Theod. l. 16. tit. 5. de Hæreticis. (t. 6. p. 106.) Qua vero conditione, &c.

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Thirdly, all commerce forbidden to be held with them. *De Hæreticis*, legg. 17, 18, 36, 40, 48.

Fourthly, the depriving them of all offices of profit and dignity in the *militia palatina*, or *civil administration*. Which was first enacted by Theodosius, and confirmed by the succeeding emperors; legg. 9, 25, 29, 42, 48, 58, 61, 65. Particularly Gothofred[73] commends that as an elegant saying of Honorius, *De Hæreticis*[74], leg. 42. *Nullus vobis sit aliqua ratione conjunctus, qui a nobis fide et religione discedat. We will have no one employed about us that differs from us in faith and religion.* Yet he observes[75] that all burdensome offices, both of the camp and *curia*, what we now call *military* and *municipal offices*, were imposed upon them. Which is confirmed by one of Justinian's Novels[76], which the learned reader may see in the margin.

Fifthly, they were rendered intestate, that is, they were unqualified either to dispose of their estates by will, or receive estates from any others. Thus particularly the Manichees were punished, *De Hæreticis*, legg. 7, 9, 18, 65. *De Apostatis*, leg. 3. And so the Eumonians, *De Hæreticis*, legg. 17, 25, 49, 50, 58. And the Donatists, *De Hæreticis*, leg. 54, and leg. 4, *Ne sanctum baptisma iteretur*. Pursuant to which laws all the goods of heretics, or whatever was left them, were liable to be confiscated either to the emperor's exchequer, or to the people of Rome, *De Hæreticis*, legg. 7, 9, 17, 18, 49.

Sixthly, the right of giving or receiving donations was denied them, *De Hæreticis*, legg. 7, 9, 36, 40, 49, 50, 58, 65, and leg. 4, *Ne sanctum baptisma iteretur*. Only by one law some few persons were excepted, to whom they might give donations, *De Hæreticis*, leg. 65.

[73] [Ibid. (p. 109. ad summ.)... Elegans est Honorii dictum leg. 42. Nullus nobis, &c. Ed.]

[74] Ibid. ut supr. (p. 163.)

[75] Ibid. (p. 109.]... Et tamen neque a castrensi seu armata militia prohibiti leg. 65, neque a curia aut cohortali militia, legg. 48, 61, 65.

[76] Novel. 45. Præf. (t. 5. p. 263.) .... Quapropter curiam exerceant hujusmodi homines, et nimis ingemiscentes, et curialibus functionibus, sicut etiam officialibus, ut dudum sancitum est, et nulla religio ab ejusmodi nos [hos?] excipiat fortuna ... Indigni tamen curiali sint honore, et quoniam leges plurima curialibus præbent privilegia, et ut non cædantur, neque ad aliam ducantur provinciam, et alia plurima, horum nullo fruantur... Et compleant corporalia, et pecuniariæ munera, et nulla ab his eripiat eos lex: honore vero fruantur nullo, sed sint in turpitudine fortunæ, in qua et animam volunt esse.

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Seventhly, the Manichees, Cataphrygians, Priscillianists, or followers of Priscilla, the Montanists, Donatists, and all that were rebaptized by them, are deprived of the right of contracting, buying, and selling, *De Hæreticis*, legg. 40, 48, 54, and leg. 4, *Ne sanctum baptisma iteretur*.

Eighthly, pecuniary mulcts and fines were imposed upon them, *De Hæreticis*, legg. 39, 52, 54. And these are often mentioned by St. Austin[77], who yet intimates that they were seldom executed against them, and frequently begged off by the Catholics interceding for them.

Ninthly, they were proscribed, transported, and banished, *De Hæreticis*, legg. 13, 14, 15, 16, 18, 20, 29, 40, 52, 53, 57, 58. Thus Sozomen[78] says, Constantine banished Arius, and all who opposed the decrees of the Council of Nice. And St. Austin[79] says, Constantine banished the Donatists; and all

[77] Ep. 68. [al. 88.] ad Januar. p. 124. (t. 2. p. 216 f.)...Pœna decem librarum auri, quæ in hæreticos ab imperatoribus fuerat constituta, &c. —Conf. Ep. 1. [al. 185. c. 7.] (t. 2. p. 653 g, a. p. 654 a.)...Si legem... Theodosii, quam generaliter in omnes hæreticos promulgavit, *ut quisquis eorum episcopus vel clericus ubilibet esset inventus, decem libris auri multaretur*. — Epp. 166, 167, 173. (al. 105, 89, 66.)—Cont. Crescon. l. 3. c. 47. (t. 9. p. 462 a.) Quid aliud, nisi quod pars Donati jam sciret, se ad illam pœnam aurariam cum cæteris hæreticis pertinere, &c.? —Cont. Ep. Parmenian. l. 1. c. 12. (ibid. p. 23 g.) Aliorum autem imperatorum leges, quæ vehementer adversus eos latæ sunt, quis ignorat? In quibus una generalis adversus omnes, qui Christianos se dici volunt, et ecclesiæ Catholicæ non communicant, sed in suis separatim conventiculis congregantur, id continet, *Ut vel ordinator clerici, vel ipse ordinatus denis libris auri mulctentur*.

[78] L. 1. c. 20. (v. 2. p. 38. 45.) *Ὑπερορίῳ τε φυγῇ ζημιωθήσεσθαι προηγόρευσε τὸν ἐναντίον τῶν δεδογμένων ἐρχόμενον, ὡς διαφθείραντα τοὺς θείους ὅρους.*

[79] Ep. 152. [al. 141.] ad Donatist. (t. 2. p. 460 b.)... Protulerunt literas... Constantini, ad vicarium Verinum datas, ubi eos graviter detestatur, et propterea dicit de exsilio relaxandos et furori suo dimittendos, quia jam Deus cœperat in illos vindicare...quando eos vehementer exsecratus; ideo jussit, ut de exsilio dimitterentur, ut Deo judice, sicut etiam cœperant, punirentur.—Ep. 166. p. 289. [al. 105. c. 2.] (ibid. p. 299 g.) Tunc Constantinus prior contra partem Donati severissimam legem dedit. Hunc imitati filii ejus talia præceperunt. Quibus succedens Julianus, desertor Christi et inimicus, supplicantibus vestris, Rogatiano et Pontio, libertatem perditionis parti Donati permisit: denique tunc reddidit basilicas hæreticis, quando templa dæmoniis, eo modo putans Christianum nomen posse perire de terris, si unitati ecclesiæ, de qua lapsus fuerat, invideret, et sacrilegas dissensiones liberas esse permitteret..... Huic successit Jovianus, qui quoniam cito mortuus est, nihil de rebus talibus jussit. Deinde Valentinianus; legite quæ contra vos jusserit. Inde Gratianus et Theodosius; legite, quando vultis, quæ de vobis constituerint. Quid ergo de filiis Theodosii miramini, quasi aliud in hac causa sequi debuerint, quam Constantini judicium per tot Christianos imperatores firmissime custoditum?

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the succeeding emperors, except Julian the apostate, made severe laws against them. And Julian only recalled them in devilish policy, thinking by division of Christians into several sects to destroy them totally out of the world. Honorius banished Jovinian into Boa, an island of Dalmatia, as is said in the law particularly made against him[80] in the Code. And Theodosius Junior banished Nestorius, as the historians[81] note, after the Council of Ephesus had deposed him.

Tenthly, they were also in many cases subjected to corporal punishment, scourging, &c., before they were sent into banishment, *De Hæreticis*, legg. 21, 53, 54, 57, and leg. 4, *Ne sanctum baptisma iteretur*.

Eleventhly and finally, in some special cases they were terrified by sanguinary laws, which made them liable to death, though by the connivance of the princes, or the intercession of the Church, they were rarely put in execution against them. Gothofred says, the first law of this kind was made by Theodosius, anno 382, against the Encratites, the Saccophori, the Hydroparastatæ, and the Manichees, which is the ninth law *De Hæreticis*. After which example, many other such laws were made against the heretical priests, who pretended to exercise their superstition against the prohibition of the law: and against such possessors as allowed them a conventicle to meet in: and against such as retained and concealed their pernicious books. *De Hæreticis*, legg. 15, 16, 34, 35, 36, 38, 43, 44, 51, 53, 54, 56, 63.

Besides these laws and punishments, which chiefly affected their persons, Gothofred observes several other laws which tended to the extirpation of heresy. Such as,

First, those which forbid heretical teachers to propagate their doctrine publicly or privately. *De Hæreticis*, legg. 3, 5, 13, 24, and leg. 2, *Ne sanctum baptisma iteretur*.

[80] L. 16. tit. 5. de Hæreticis, leg. 53. (t. 6. p. 174.) Jovianum [leg. Jovinianum] sacrilegos agere conventus extra muros urbis sacratissimæ episcoporum querela deplorat. Quare supra memoratum corripi præcipimus, et contusum plumbo, cum cæteris suis participibus et ministris, exsilio coërceri: ipsum autem machinatorem in insulam Boam festina celeritate deduci.

[81] Socrat. l. 7. c. 34. (v. 2. p. 384. 6.)... Καὶ ἄχρι νῦν καθῃρημένος, εἰς ἐξορίαν πεμφθεὶς εἰς τὴν Ὄασιν κατοικεῖ.—Evagr. l. 1. c. 7. (v. 3. p. 257. 23.) Ὡς καὶ Ἰωάννην τὸν τῆς Ἀντιόχου πρόεδρον ταῦτα μηνύσαι, ἀειφυγίᾳ τε τὸν Νεστόριον καταδικασθῆναι.

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Secondly, the laws which forbid heretics to hold public disputations by gathering companies of people together. *De Hæreticis,* leg. 46, and *De his qui super religione contendunt,* legg. 1, 2, 3.

Thirdly, those which forbid heretics to ordain bishops, presbyters, or any other clergy. *De Hæreticis,* legg. 12, 14, 21, 22, 24, 26, 27, 57, 58, 65.

Fourthly, such as deny to those that are so ordained the names and privileges of bishops and clergy. *De Hæreticis,* legg. 1, 24, 26, 28. *De Episcopis,* legg. 2, 3, and leg. 1, *Ne sanctum baptisma iteretur.*

Fifthly, such laws as prohibit all heretical conventicles and assemblies. *De Hæreticis,* legg. 4, 5, 6, 10, 11, 12, 14, 15, 19, 20, 21, 26, 30, 45, 52, 53, 54, 56, 65, and leg. 7, *Ne sanctum baptisma iteretur.*

Sixthly, such as forbid heretics to build conventicles, *De Hæreticis,* legg. 1, 2, 6, 7, 8, 12, 30, 65, and *De Fide Catholica,* leg. 3; and forbid any one to leave any legacy to them, *De Hæreticis,* leg. 65; and ordering both the conventicles and whatever was so bequeathed to them, either to be confiscated to the public exchequer, *De Hæreticis,* legg. 3, 4, 8, 12, 21, 30; or else to be given to the use of the Catholic Churches, *De Hæreticis,* legg. 43, 52, 54, 56, 57, 65, and leg. 2, *Ne sanctum baptisma iteretur.* Only excepting the Novatians, to whom Constantine showed a little favour[82], because though they were schismatical, yet they held to the Catholic faith; *De Hæreticis,* leg. 2.

Seventhly, such laws as allow slaves to inform against their heretical masters, and gain their freedom by coming over to the Church. *De Hæreticis,* leg. 40, and leg. 4, *Ne sanctum baptisma iteretur.*

Eighthly, such laws as deny the children of heretical parents their patrimony and inheritance, except they returned to the Catholic Church. *De Hæreticis,* legg. 7, 9, 40, and leg. 7, *Ne sanctum baptisma iteretur.*

[82] [Vid. Socrat. l. 2. c. 38. (v. 2. 145. 24.) .... Εἰδὼς καὶ αὐτοὺς φρονοῦντας τὸ ὁμοούσιον.—L. 5. c. 10. (ibid. p. 276. 1.) Ὁ γὰρ βασιλεὺς θαυμάσας αὐτῶν τὴν περὶ τοὺς οἰκείους κατὰ τὴν πίστιν ὁμόνοιαν, κ. τ. λ. —Sozom. l. 8. c. 1. (ibid. p. 324. 26.) Οὔτε γὰρ τοῖς αὐτοῖς ἐπιτιμίοις ἢ νόμοις ὁμοίως ταῖς ἄλλαις αἱρέσεσιν ἔνοχοι ἦσαν, ὡς ὁμοούσιον Τριάδα δοξάζοντες. Ed.]

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Ninthly, such laws as order the books of heretics to be burned. *De Hæreticis*, legg. 34, 65.

This is the short account of those several penal laws which the emperors made against heretics from the time of Constantine to Theodosius Junior and Valentinian III, which the learned reader may find at length under their respective titles, both in the Theodosian and in the Justinian Code. It is sufficient here to have given an abstract of them, which may serve to give some light to the laws of the Church that were made against them, which I now proceed to give a more particular account of, as more properly relating to the discipline of the Church.

How heretics were treated by the discipline of the Church. First, They were anathematized and cast out of the Church.

7. And here we may observe, in the first place, that heresy was always accounted one of the principal crimes that a Christian could be guilty of, as being a sort of apostasy from the faith, and a voluntary apostasy, which was a circumstance that added much to the heinousness of the offence. Therefore Cyprian[83], comparing the crimes of heretics and schismatics with those that lapsed into idolatry by the violence of persecution, says, 'this is a worse crime than that which the lapsers may seem to have committed, who yet do a severe penance for their crime, and implore the mercy of God by a long and plenary satisfaction. The one seeks to the Church, and humbly intreats her favour; the other resists the Church, and proclaims open war against her. The one has the excuse of necessity: the other is detained in his crime by his own will only. He that lapses, hurts himself alone: but he that endeavours to make an heresy or schism, draws many others with him into the same delusion. Here is only the loss of one soul: but there a multitude is drawn into danger. The lapser is sensible that

[83] De Unitat. Eccles. p. 117. (p. 84.) Pejus hoc crimen [hæresis] est, quam quod admisisse lapsi videntur; qui tamen, in pœnitentia criminis constituti, Deum plenis satisfactionibus deprecantur. Hic ecclesia quæritur et rogatur; illic ecclesia repugnatur. Hic potest necessitas fuisse; illic voluntas tenetur in scelere. Hic, qui lapsus est, sibi tantum nocuit; illic, qui hæresin vel schisma facere conatus est, multos secum trahendo decepit. Hic animæ unius est damnum; illic periculum plurimorum. Certe peccasse se hic et intelligit, et lamentatur, et plangit; ille tumens in peccato suo, et in ipsis sibi delictis placens, a matre filios segregat, oves a pastore solicitat, Dei sacramenta disturbat. Et cum lapsus semel peccaverit, ille quotidie peccat. Postremo lapsus, martyrium postmodum consecutus, potest regni promissa percipere; ille, si extra ecclesiam fuerit occisus, ad ecclesiæ non potest præmia pervenire.

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he has committed a fault, and therefore he mourns and laments for it: but the other grows proud, and swells in his crime, and pleasing himself in his errors he divides the children from the mother, tempts and solicits the sheep from the shepherd, and disturbs the sacraments of God. And whereas a lapser sins but once, he sins every day. Finally, a lapser may afterward become a martyr, and obtain the promises of the kingdom; but the other, being out of the Church, cannot attain to the rewards of the Church, although he be slain for religion.' This last argument is often insisted on by Cyprian[84], and St. Austin[85] and Chrysostom[86] and others, to deter men from engaging in heresy and schism: and it implies, that heretics did voluntarily cut themselves off from the communion of the Church, and stood "condemned of themselves," (as the Apostle[87]

[84] Ibid. p. 109. (p. 78.) Quelquis ab ecclesia segregatus adulteræ jungitur, a promissis ecclesiæ separatur. Nec pervenit ad Christi præmia, qui relinquit ecclesiam Christi. —Ibid. p. 113. (p. 81.) Tales etiamsi occisi in confessione nominis fuerint, macula ista nec sanguine abluitur. Inexpiabilis et gravis culpa discordiæ nec passione purgatur. Esse martyr non potest, qui in ecclesia non est: ad regnum pervenire non poterit, qui eam, quæ regnatura est, derelinquit.—Ibid. p. 114. (p. 82.) Cum Deo manere non possunt, qui esse in ecclesia Dei unanimes noluerunt: ardeant licet flammis, et ignibus traditi, vel objecti bestiis, animas suas ponant; non erit illa fidei corona, sed pœna perfidiæ; nec religiosæ virtutis exitus gloriosus, sed desperationis interitus. Occidi talis potest, coronari non potest.—Ep. 52. [al. 55.] ad Antonian. p. 108. (p. 246.) Ubi [apud hæreticos et schismaticos], etsi occisus propter nomen postmodum fuerit, extra ecclesiam constitutus, et ab unitate atque caritate divisus, coronari in morte non poterit.—Ibid. p. 114. (p. 251.) Christi ecclesiam dissipantes, nec si occisi pro nomine foris fuerint, admitti secundum Apostolum possunt ad ecclesiæ pacem, quando nec Spiritus nec ecclesiæ tenuerunt unitatem.—Vid. Ep. 57. [al. 54.] ad Cornel. (p. 270.) .... Si aliquis ex talibus fuerit apprehensus, non est quod sibi quasi in confessionis nominis [leg. nomine] blandiatur; cum constet, si occisi ejusmodi extra ecclesiam fuerint, fidei coronam non esse, sed pœnam potius esse perfidiæ, &c.

[85] Contr. Lit. Petilian. l. 2. c. 23. (t. 9. p. 233 c.) Si schisma fecisti, impius es: si impius es, ut sacrilegus moreris, cum pro impietate puniris: si ut sacrilegus moreris, quomodo tuo sanguine baptizaris?—De Bapt. l. 4. c. 17. (ibid. p. 135 g.).... *Neque hoc baptisma*, inquit, *hæretico prodest, quamvis Christum confessus extra ecclesiam fuerit occisus:* Caritatem non habuisse convincitur, de qua Apostolus dicit, *Et si tradidero corpus meum, &c.*—Ep. 204. [al. 173.] (p. 614 f.) Foris autem ab ecclesia constitutus, et separatus a compage unitatis et vinculo caritatis, æterno supplicio punireris, etiamsi pro Christi nomine vivus incendereris. Hoc est enim, quod ait Apostolus, *Etsi tradidero, &c.*

[86] Hom. 11. in Eph. (t. 11. p. 86 c.) *Ἀνὴρ δέ τις ἅγιος εἴπέ τι δοκοῦν εἶναι τολμηρὸν, πλὴν ἀλλ' ὅμως ἐφθέγξατο· τί δὴ τοῦτο ἔστιν; Οὐδὲ μαρτυρίου αἷμα ταύτην δύνασθαι ἐξαλείφειν τὴν ἁμαρτίαν ἔφησεν.*

[87] [See Tit. 3, 11. *Εἰδὼς ὅτι ἐξέστραπται ὁ τοιοῦτος [αἱρετικὸς ἄνθρωπος], καὶ ἁμαρτάνει, ὢν αὐτοκατάκριτος.*—Vid. Estium in loc. (Pa-

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words it, and some of the Ancients[87] understand it,) by a voluntary excommunication, or separation of themselves from the Church. Yet this did not hinder, but that notwithstanding any such separation of themselves, the Church ordinarily pronounced a more formal *anathema*, or excommunication against them. As the Council of Nice ends her Creed with an *anathema* against all those who opposed the doctrine there delivered; and the Council of Gangra closes every canon with *anathema* against the Eustathian heretics; and there are innumerable instances of this kind in the tomes of the Councils, which it would be next to impertinent here only to refer to, they are so well known to all that have ever looked into them.

Secondly, They were debarred from entering the church by some canons, though not by all.

8. To proceed then, when they were once formally excommunicated, so long as they continued impenitent, they were by some rules of discipline debarred from the very lowest privileges of church-communion; being forbidden to enter the church so much as to hear the sermon, or the Scriptures read in the service of the catechumens. The Council of Laodicea has a canon[88] to this purpose, 'that heretics, so long as they continue in their heresy, shall not be permitted to enter into the house of God.' And it is probable this rule might be observed in the strict discipline of some Churches. But it was no general rule: for I have had occasion to show before[89], out of the African and Spanish Councils, and several passages of St. Chrysostom's Homilies, that liberty was granted to heretics, together with Jews and Heathens, to come into the church and hear the sermon preached and the Scriptures read, being these were proper for their instruction. They thought it not impossible but that heretics might be converted in the church, as Polemon, a debauched young man, was converted in the school of Xenocrates; when coming drunk and with his bacchanal wreaths about his head to hear the philo-

ris. 1666. p. 854.) Tertius igitur sensus est, hæreticum peccare, non quomodocunque, sed ita ut proprio se judicio condemnet, dum præveniens quodammodo judicium episcopi, quo condemnatus esset, et a fidelium societate separandus, ipse semetipsum ab ea separat, palam et pertinaciter ab ejus doctrina dissentiens. Ed.]

[87] [Vid. Suicer. in voc. t. 1. p. 582. Ed.]

[88] C. 6. (t. 1. p. 1497 a.) Περὶ τοῦ, μὴ συγχωρεῖν τοῖς αἱρετικοῖς εἰσιέναι εἰς τὸν οἶκον τοῦ Θεοῦ.

[89] B. 13. ch. 1. s. 2. v. 4. p. 262. nn. 1, 2, 3, et seqq.

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sopher read his lecture, which happened to be about temperance and modesty[89], he was so affected therewith, that he not only became his scholar and his convert, but his successor also in the school of Plato. The historians[90] tell us, that Chrysostom by this means brought over many to acknowledge the divinity of Christ, whilst they had liberty to come to hear his sermons. And the fathers of the Council of Valentia[91] in Spain give this as the reason why they allowed Heathens and heretics to come and hear the bishop's preaching and the reading of the Scriptures, 'because they had found by experience that many by these means had been converted to the faith.' So that the Church, which always studied men's edification, and not their destruction, in prudence so ordered her discipline, as to encourage heretics to frequent one part of her service, which she allowed to her penitents and catechu-

[89] Vid. Valer. Max. l. 6. c. 9. (Antwerp. 1621. Extern. n. 1. p. 261.) Perditæ luxuriæ Athenis adolescens Polemo, neque illecebris ejus tantummodo, sed etiam ipsa infamia gaudens; cum e convivio non post occasum solis, sed post ortum surrexisset, domumque rediens Xenocratis philosophi patentem januam vidisset; vino gravis, unguentis delibutus, sertis capite redimito, pellucida veste amictus, refertam turba doctorum hominum scholam ejus intravit. Nec contentus tam deformi introitu, consedit etiam, ut clarissimum eloquium, et prudentissima præcepta, temulentiæ lasciviis elevaret. Orta deinde, ut par erat, omnium indignatione, Xenocrates vultum in eodem habitu continuit, omissaque re quam disserebat, de modestia ac temperantia loqui cœpit. Cujus gravitate sermonis resipiscere coactus Polemo, primum coronam capite detractam projecit; paulo post brachium intra pallium reduxit; procedente tempore, oris convivalis hilaritatem deposuit; ad ultimum totam luxuriam exuit, uniusque orationis saluberrima medicina sanatus, ex infami ganeone maximus philosophus evasit. [See the story of Polemon in Diogenes Laertius, l. 4. Vit. Polemon. 263. (p. 100 b. seqq.)—See also Horat. l. 2. Sat. 3. ver. 253. (Corp. Poet. Lat. t. 1. p. 477.)

.... Quæro, faciasne quod olim
Mutatus Polemon? ponas insignia morbi,
Fasciolas, cubital, focalia? potus ut ille
Dicitur ex collo furtim carpsisse coronas,
Postquam est impransi correptus voce magistri. Ed.]

[90] Sozom. l. 8. c. 2. (v. 2. p. 325. 46.) Πλείστους δὲ τῶν αὐτοῦ ἀκουόντων ἐπ' ἐκκλησίας εἰς ἀρετὴν ὠφέλησε, καὶ ὁμόφρονας αὐτῷ περὶ τὸ θεῖον ἐποίησε.

[91] C. 1. (t. 4. p. 1617 d.) Inter cætera hoc censuimus observandum; ut sacrosancta Evangelia ante munerum illationem, vel missam [al. in missa] catechumenorum, in ordine lectionum, post Apostolum legantur; quatenus salutaria præcepta Domini nostri Jesu Christi, vel sermonem sacerdotis, non solum fideles, sed etiam catechumeni et pœnitentes, et omnes, qui ex diverso sunt, audire, licitum habeant. Sic enim pontificum prædicatione audita, nonnullos ad fidem attractos evidenter scimus.

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mens. And if heretics were at any time denied it, there was some very particular and extraordinary reason for it.

Thirdly, No one to encourage heretics and schismatics by frequenting their assemblies.

9. But there was not the same reason for allowing Catholics to frequent the assemblies or conventicles of heretics and schismatics; because this, instead of converting them, had rather been to have confirmed and hardened them in their errors: and therefore the prohibition in this case was more peremptory and universal, that no one should join with heretics in any religious offices, and least of all in their conventicles, under pain of excommunication. To this purpose the Apostolical Canons [92]: 'If any bishop, presbyter, or deacon pray with heretics, let him be suspended: but if he suffer them to officiate as clergymen, let him be deposed.' And again [93], 'If any clergyman or layman go into a synagogue of Jews or heretics to pray, let him be excommunicated or deposed.' In like manner the Council of Laodicea [94]: 'None of the Church are permitted to go to the cemeteries or martyries of heretics for prayer or worship, under pain of excommunication for some time, till they repent and confess their error.' And again [95], 'It is not lawful to pray with heretics or schismatics.' 'The assembly of heretics,' says the Council of Carthage [96], 'is not a church, but a conventicle: therefore [97] with heretics no one shall either pray or sing psalms.' 'If a Catholic,' says the Council of Lerida [98], 'offer his children to be baptized by heretics, his oblation shall in no wise be received in the church.' But then this was to be understood, where a man

[92] C. 45. [al. 44.] (Cotel. [c. 37.] v. 1. p. 444.) Ἐπίσκοπος ἢ πρεσβύτερος, ἢ διάκονος, αἱρετικοῖς συνευξάμενος μόνον, ἀφοριζέσθω· εἰ δὲ καὶ ἐπέτρεψεν αὐτοῖς ὡς κληρικοῖς ἐνεργῆσαί τι, καθαιρείσθω.

[93] Ibid. c. 65. [al. 63.] (Cotel. [c. 57.] ibid. p. 446.) Εἴ τις κληρικὸς, ἢ λαϊκὸς, εἰσέλθῃ εἰς συναγωγὴν Ἰουδαίων ἢ αἱρετικῶν προσ[al. συν-]εύξασθαι, καθαιρείσθω καὶ ἀφοριζέσθω.

[94] C. 9. (t. 1. p. 1497 c.) Περὶ τοῦ μὴ συγχωρεῖν εἰς τὰ κοιμητήρια, ἢ εἰς τὰ λεγόμενα μαρτύρια πάντων τῶν αἱρετικῶν ἀπιέναι τοὺς τῆς ἐκκλησίας, εὐχῆς ἢ θεραπείας ἕνεκα· ἀλλὰ τοὺς τοιούτους, ἐὰν ὦσι πιστοὶ, ἀκοινωνήτους γίνεσθαι μέχρι τινός· μετανοοῦντας δὲ, καὶ ἐξομολογουμένους ἐσφάλθαι, παραδέχεσθαι.

[95] Ibid. c. 33. (p. 1501 e.) Ὅτι οὐ δεῖ αἱρετικοῖς ἢ σχισματικοῖς συνεύχεσθαι.

[96] Carth. 4. c. 71. (t. 2. p. 1205 d.) Hæreticorum cœtus [al. conventicula] non ecclesia, sed conciliabulum est.

[97] Ibid. c. 72. (d.) Cum hæreticis nec orandum nec psallendum.

[98] C. 13. (t. 4. p. 1613 b.) Catholicus, qui filios suos in hæresi baptizandos obtulerit, oblatio illius in ecclesia nullatenus recipiatur.—Vid. Hieron. Dialog. cont. Lucifer. c. 5. [al. 12.] (t. 2. p. 184 a.) .... Sciens ab hæreticis baptizatus, erroris veniam non meretur.

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might have baptism from a Catholic, and he chose rather to go to an heretic to receive it, without any necessity to compel him so to do. For otherwise, as has been observed before out of several places of St. Austin [99], in case of extreme necessity, a man was allowed to receive baptism from an heretic, rather than die without it. This was not esteemed any breach of Catholic unity, neither was it the case, which the discipline of the Church respected, when she forbad men to encourage heretics by a voluntary joining with them, and receiving baptism from them. Cyril of Jerusalem [1] in this sense bids his catechumen abhor especially the conventicles of impious heretics, and have no communication with them. Chrysostom [2] compares heretics to those that deface the king's coin: though it be but in one point, they subvert the Gospel thereby, and therefore Catholics ought to make a separation from them. 'No one,' he says [3], 'ought to maintain any friendship with heretics. Since they maintain different doctrines, men ought not to mingle or join in their assemblies with them.' And he adds, 'that to divide the Church by schism, is no less a crime than to fall into heresy, because it exposes the Church to the ridicule of the Gentiles.' There he also urges that famous saying of Cyprian [4], 'The blood of martyrdom cannot blot out this crime. For why art thou a martyr? is it not for the glory of Christ? if therefore thou layest down thy life for Christ, why dost thou lay waste his Church, for which Christ laid down his own life?' Thus the Ancients dissuade men from encouraging heretics and schismatics by resorting to their assemblies.

[99] De Bapt. l. 1. c. 2. et l. 6. c. 5. l. 7. c. 52. See these cited at large before, ch. 1. s. 4. p. 16. nn. 33, 34, 35.

[1] Catech. 4. n. 23. [al. 37.] (p. 70 b.) .... *Ἐξαιρέτως δὲ μίσει πάντα τὰ συνεδρία τῶν παρανόμων αἱρετικῶν.*

[2] In Gal. 1. p. 972. (t. 10. p. 669 c.) *Καθάπερ ἐν τοῖς βασιλικοῖς νομίσμασιν ὁ μικρὸν τοῦ χαρακτῆρος περικόψας, ὅλον τὸ νόμισμα κίβδηλον εἰργάσατο· οὕτω καὶ τῆς ὑγιοῦς πίστεως καὶ τὸ βραχύτατον ἀνατρέψας, τῷ παντὶ λυμαίνεται, ἐπὶ τὰ χείρονα προϊὼν ἀπὸ τῆς ἀρχῆς.*

[3] Hom. 11. in Eph. p. 1108. (t. 11. p. 86 f.) .... *Εἰ μὲν γὰρ καὶ δόγματα ἔχουσι ἐναντία, καὶ διὰ τοῦτο οὐ προσῆκεν ἐκείνοις ἀναμίγνυσθαι, κ. τ. λ.*

[4] Ibid. p. 1107. (d.) *Οὐδὲ μαρτυρίου αἷμα ταύτην δύνασθαι ἐξαλείφειν τὴν ἁμαρτίαν ἔφησεν. Εἰπὲ γάρ μοι, τίνος ἕνεκεν μαρτυρεῖς; οὐ διὰ τὴν δόξαν τοῦ Χριστοῦ; ὁ τοίνυν τὴν ψυχὴν προθέμενος ὑπὲρ τοῦ Χριστοῦ, πῶς τὴν ἐκκλησίαν πορθεῖς, ὑπὲρ ἧς τὴν ψυχὴν προήκατο ὁ Χριστός;*—See before, s. 7. nn. 84, 85, 86, preceding.

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10. There were many other marks of infamy and disgrace set upon heretics by the laws of the Church joining with the laws of the State, to give men a greater abhorrence of them. No one was so much as to eat at a feast, or converse familiarly with them; no one might receive their *eulogiæ*, or *festival presents;* nor read or retain their writings, but discover and burn them; no one might make marriages, or enter into any affinity with them, except they would promise to return into the Catholic Church. As long as they continued in heresy, their names were struck out of the diptychs of the Church: and if they died in heresy, no psalmody or other solemnity was used at their funeral; no oblations were offered for them, nor any memorial ever after made of them in the solemn service of the Church. But because I have spoken of these things fully in the general description of the Church's treatment of excommunicate persons before[5], it may be sufficient only to have hinted these several points in this place, because these punishments were not peculiar to heretics, but belonged to all in general that were under the censure of excommunication.

Fourthly, No one to eat or converse with heretics, or receive their presents, or retain their writings, or make marriages with them, &c.

11. Yet there are two things of this kind, which it may not be improper to speak a little more particularly of here. 1. That by the laws of the Church, as well as the State, heretics were rendered infamous, and their testimony was not to be taken as evidence in any ecclesiastical cause whatsoever. 'The testimony of an heretic shall not be taken against a bishop,' say the Apostolical Canons[6]. 'In all judgment,' says the Council of Carthage[7], 'examination shall be made into the conversation and faith of both the accuser and defendant.' In the African Code there are two canons to this purpose: the one[8] forbidding all excommunicate persons, under which heretics are comprehended, to be evidence against any man, during the time of

Fifthly, Heretics not allowed to be evidence in any ecclesiastical cause against a Catholic.

[5] Ch. 2. s. 11, and onwards, pp. 97–102.

[6] C. 75. [al. 74.] (Cotel. [c. 67.] v. 1. p. 447.) *Εἰς μαρτυρίαν τὴν κατὰ ἐπισκόπου αἱρετικὸν μὴ προσδέχεσθε.*

[7] Carth. 4. c. 96. (t. 2. p. 1207 c.) Quærendum in judicio, cujus sit conversationis et fidei is qui accusat, et is qui accusatur.

[8] C. 129. [al. 128.] (ibid. p. 1134 b.) *Ἤρεσε πᾶσιν, ἐπειδὴ τοῖς ἀνωτέροις τῶν συνόδων ψηφίσμασι περὶ πρόσώπων κληρικῶν, τῶν μὴ ὀφειλόντων εἰς κατηγορίαν προσδεχθῆναι, ὡρίσθη, καὶ οὐκ ἐπεξειργάσθη, ποῖα πρόσωπα μὴ προσδεχθῶσι· διὰ τοῦτο ὁρίζομεν, τοῦτον ὀρθῶς πρὸς κατηγορίαν μὴ εἰσδέχεσθαι, ὅστις, μετὰ τὸ ἀπὸ κοινωνίας γενέσθαι, ἐν αὐτῷ ἔτι τῷ ἀφορισμῷ ὑπάρχει εἴτε κληρικὸς εἴη, εἴτε λαϊκὸς, ὁ κατηγορῆσαι βουλόμενος.*

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their suspension. And the other[9] expressly naming heretics among many others whose testimony was not to be admitted in law: such as slaves and freedmen against their own masters; all mimics, and actors, and such other infamous persons; all Jews and Heathens; and all such, whose testimony was reprobated by the laws of the State; except it were in some matter of their own private concerns, in which case every man was to have justice, and any one allowed to accuse another. The same equitable distinction is made by the general Council of Constantinople[10]: a man might have a private cause of complaint against a bishop; as, that he was defrauded in his property, or in any the like cases injured by him: in which case his accusation was to be heard, without considering at all the quality of the person or his religion. For a bishop was to keep a good conscience, and any man that complained of being injured by him was to have justice done him, whatever religion he was of. But if the crime was purely ecclesiastical that was alleged against him, then the personal qualities of the accusers were to be examined; and in the first place heretics are not allowed to accuse orthodox bishops in causes ecclesiastical; neither any excommunicated persons, before they had first made satisfaction for their own crimes.

Gothofred indeed questions, whether there be any law in the Theodosian Code which thus unqualifies heretics from giving evidence: for though there be a law of Valentinian[11], twice

[9] C. 130. [al. 129.] (ibid. c.) *Ὁμοίως ἤρεσεν, ἵνα πάντες οἱ δοῦλοι, καὶ οἱ ἴδιοι ἀπελεύθεροι, εἰς κατηγορίαν μὴ δεχθῶσι· καὶ πάντες, οὓς πρὸς κατηγορητέα ἐγκλήματα οἱ δημόσιοι νόμοι οὐ προσδέχονται· πάντες ἔτι μὴν, οἱ τοῖς τῆς ἀτιμίας σπίλοις ἐρραντισμένοι, τοῦτ' ἔστι μῖμοι, καὶ ὅσα τοῖς αἰσχρότησιν ὑποβέβληνται πρόσωπα· αἱρετικοὶ ἔτι μὴν, εἴτε Ἕλληνες, εἴτε Ἰουδαῖοι· πλὴν ὅμως πᾶσιν, οἷς ἡ τοιαύτη κατηγορία ἀρνεῖται, ἐν ταῖς ἰδίαις αἰτίαις τὴν τοῦ κατηγορεῖν ἄδειαν μὴ ὀφείλειν ἀρνεῖσθαι.*

[10] C. 6. (ibid. p. 950 a.) *Εἰ μέν τις οἰκείαν τινὰ μέμψιν, τοῦτ' ἔστιν, ἰδιωτικὴν, ἐπαγάγοι τῷ ἐπισκόπῳ, ὡς πλεονεκτηθεὶς, ἢ ἀλλό τι παρὰ τὸ δίκαιον παρ' αὐτοῦ πεπονθώς· ἐπὶ τῶν τοιούτων κατηγοριῶν μὴ ἐξετάζεσθαι, μήτε πρόσωπον τοῦ κατηγόρου, μήτε τὴν θρησκείαν. Χρὴ γὰρ παντὶ τρόπῳ τό, τε συνειδὸς τοῦ ἐπισκόπου ἐλεύθερον εἶναι, καὶ τὸν ἀδικεῖσθαι λέγοντα, οἵας ἂν ᾖ θρησκείας, τῶν δικαίων τυγχάνειν. Εἰ δὲ ἐκκλησιαστικὸν εἴη τὸ ἐπιφερόμενον ἔγκλημα τῷ ἐπισκόπῳ, τότε δοκιμάζεσθαι χρὴ τῶν κατηγορούντων τὰ πρόσωπα· ἵνα πρῶτον μὲν αἱρετικοῖς μὴ ἐξῇ κατηγορίας κατὰ τῶν ὀρθοδόξων ἐπισκόπων ὑπὲρ ἐκκλησιαστικῶν πραγμάτων ποιεῖσθαι. Ἔπειτα δὲ καὶ εἴ τινες ἀπὸ τῆς ἐκκλησίας ἐπὶ αἰτίαις τισὶ προκατεγνωσμένοι εἶεν καὶ ἀποβεβλημένοι, ἢ ἀκοινώνητοι, εἴτε ἀπὸ κλήρου, εἴτε ἀπὸ λαϊκοῦ τάγματος· μηδὲ τούτους ἐξεῖναι κατηγορεῖν ἐπισκόπου, πρὶν ἂν τὸ οἰκεῖον ἔγκλημα πρότερον ἀποδύσωνται.*

[11] Cod. Theod. l. 11. tit. 30. de Fide Testium, leg. 11. (t. 4. p. 332.)

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repeated in two distinct titles, declaring the proper qualifications of witnesses, yet he thinks in both places it is to be understood of apostates only, and not of heretics. But it is certain, in Justinian's Code[12], this same law is applied to heretics, rendering them incapable of giving evidence. And Justinian made two laws of his own to confirm this sense of the ancient law. In one of which[13] he says, 'that whereas the judges were at some doubt, whether they should admit the testimony of heretics in determining causes, he thus resolved the matter for their instruction: that where a Catholic was concerned in any dispute, neither heretic nor Jew should be allowed to give evidence, whether both parties were Catholics, or only one: but in such causes as Jews or heretics had between themselves, the testimony of either might indifferently be admitted, as fit witnesses for such disputers: yet with an exception to all those who were of the mad sect of the Manichees, of which the Borboritæ were a part, and all who still followed the Pagan superstition: also all Samaritans, and Montanists, and Tascodrogitæ, and Ophitæ, who differed not much from the Samaritans in the likeness of their guilt; all such are prohibited universally either to give testimony, or to prosecute any action at law.' And he mentions and confirms this decree in one of his Novels[14] also. But whether Justinian was the first that made this law in the State against heretics, as Gothofred would have it, or not, is not very

Hi, qui sanctam fidem prodiderint, et sacrum baptisma profanarint, a consortio omnium segregati, sint a testimoniis alieni, &c.—Idem repetitur l. 16. tit. 7. de Apostatis, leg. 4. (t. 6. p. 207.)

[12] L. 1. tit. 7. de Apostatis, leg. 3. (t. 4. p. 194.) Hi, qui sanctam fidem prodiderunt, et sanctum baptisma hæretica superstitione profanarunt, a consortio omnium segregati, a testimoniis alieni sint.

[13] Ibid. tit. 5. de Hæreticis, leg. 21. (ibid. p. 191.) Quoniam multi judices in dirimendis litigiis nos interpellaverunt, nostro indigentes oraculo, ut eis referretur, quid de testibus hæreticis statuendum sit, utrumne accipiantur eorum testimonia, an respuantur: sancimus, contra orthodoxos quidem litigantes, nemini hæretico, vel his etiam, qui Judaicam superstitionem colunt, esse in testimonio communionem: sive utraque pars orthodoxa sit, sive altera. Inter se autem hæreticis vel Judæis ubi litigandum existimaverint, concedimus fœdus permixtum, et dignos litigatoribus etiam testes introducere: exceptis scilicet his, quos vel Manichaïcus furor, cujus partem et Borboritas esse manifestum est, vel Pagana superstitio detinet: Samaritis nihilominus, et, qui illis non absimiles sunt, Montanistis, et Tascodrogitis, et Ophitis; quibus pro reatus similitudine omnis legitimus actus interdictus est, &c.

[14] Novel. 45. c. 1. (t. 5. p. 264.) .... Quia enim hæreticos testimonium perhibere prohibuimus, quando orthodoxi inter alterutros litigant, &c.

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material: it is certain there was such a rule in the Church long before. For St. Austin[15] pleads it in behalf of one of his own presbyters, Secundinus of Germanicia, a place in his diocese: 'Against a Catholic presbyter we neither can nor ought to admit the accusations of heretics.' And so he says again[16] in the case of Cæcilian, bishop of Carthage, whom the Donatists accused of many crimes, 'Neither piety, nor charity, nor truth, will allow the testimony of those men against him, whom we see to be out of the Church.' And long before him, Athanasius[17] pleaded the same in his own behalf: when he was accused for suffering Macarius, one of his presbyters, to break the communion cup, he urged, that his accusers were Meletians, who ought not to be credited, being schismatics and enemies both to him and the Church. A great many such rules are collected by Gratian[18], out of the Epistles of the ancient Popes, which, though they be spurious, yet they are founded upon this known practice of the Church, that the testimony of an heretic was not to be received against a Catholic in an ecclesiastical cause, which we have seen fully evinced in the preceding allegations.

Sixthly, Heretics not allowed to succeed to any paternal inheritance.

12. The other thing here to be observed is, that by the laws of the Church all men, or ecclesiastics at least, were obliged to discourage heresy, by denying obstinate defenders of it such temporal benefits and privileges as it was in their power to deny them. Thus, for instance, the Council of Carthage[19] for-

[15] Ep. 212. [al. 251.] ad Pancarium. (t. 2. p. 880 c.) Nam hæreticorum accusationes contra Catholicum presbyterum admittere nec possumus nec debemus.

[16] Ep. 1. [al. 185. c. 1.] ad Bonifac. (ibid. p. 645 a.) Ipsa pietas, veritas, caritas, non permittit contra Cæcilianum eorum hominum admittere testimonia, quos in ecclesia non videmus.

[17] Apolog. ad Constant. t. 1. p. 731. [al. Apolog. 2. cont. Arian. n. 11. (t. 1. part. 1. p. 105 c.) *Μελετιανοὶ μὲν γάρ εἰσιν οἱ κατηγοροῦντες, καθόλου πιστεύεσθαι μὴ ὀφείλοντες· σχισματικοὶ γὰρ καὶ ἐχθροὶ τῆς ἐκκλησίας γεγόνασιν.*

[18] Caus. 3. quæst. 4. (t. 1. pp. 726, seqq.) [E. G. c. 2. (45.) Accusandi vel testificandi licencia denegetur his, qui Christianæ religionis et nominis dignitatem, et suæ legis, vel sui propositi normam aut regulariter prohibita neglexerint.—It. c. 6. (p. 727. 74.) Nullus anathematizatorum suscipiatur, &c.—It. c. 11. (p. 728. 75.) Nulli unquam infami et sacrilego de quocunque negotio liceat adversus religiosum Christianum . . . testimonium dicere, &c.—Conf. quæst. 5. passim. Ed.]

[19] Carth. 3. c. 13. (t. 2. p. 1169 d.) Ut episcopi vel clerici, in eos, qui Catholici Christiani non sunt, etiamsi consanguinei fuerint, nec per donationes, nec per testamentum, rerum suarum aliquid conferant.—Vid. Cod. Afric. c. 22. (ibid. p. 1059.) *Μηδὲν διὰ δωρεᾶς τῶν οἰκείων*

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bids the bishops and clergy to confer any donations upon heretics, though they be of their kindred, either by gift or will. And the civil law gave force to this decree, by rendering all heretics intestate; that is, incapable either of disposing of their own estates, or of receiving any benefit from the wills of others, as we have seen before, sect. 6, in speaking of the civil sanctions made against them.

Seventhly, No heretic to have promotion among the clergy after his return to the Church.

13. Another law of this kind was that which forbad the ordination of such as were either baptized in heresy, or fell away after they had been baptized in Catholic unity in the Church. They were allowed to be received as penitent laymen, but not to be promoted to any ecclesiastical dignity in any order of the clerical function. But this was a piece of discipline that might be insisted on, or dispensed with and waived, according as church-governors in prudence thought most for the benefit and advantage of the Church. And therefore though the Council of Eliberis[20] and some others insist upon this rule, yet the Council of Nice dispensed with it in the case of the Novatians, and the African Fathers in the case of the Donatists, to encourage those schismatics to return to the unity of the Church. But I only just mention this here, because I have more fully stated it on both sides, upon other occasions in the preceding parts of this work[21], to which the reader may have recourse.

Eighthly, No one to be ordained who kept any in his family that were not of the Catholic faith.

14. And there I have also noted another rule, which relates to the matter now in hand; which was, that no one should be ordained bishop, presbyter, or deacon, who had not first made all the members of his family Catholic Christians. This is a rule we find in the third Council of Carthage[22], where St. Aus-

πραγμάτων, ὡς εἴρηται, τοὺς ἐπισκόπους ἢ κληρικοὺς τούτοις συνεισάγειν. [Conf. etiam C. vulgo dictum Africanum, c. 48. (juxt. Ed. Crabb. t. 1. p. 509.) Item constitutum est, ut si quis episcopus hæredes extraneos a consanguinitate suæ, vel hæreticos etiam consanguineos, aut Paganos, ecclesiæ prætulerit, saltem post mortem anathema ei dicatur, atque ejus nomen inter Dei sacerdotes nullo modo recitetur.—Vid. Cod. Afric. c. 81. (t. 2. p. 1098 b.) Ὁμοίως ὡρίσθη ἵνα ἐάν τις ἐπισκόπος κληρονόμους συγγενεῖς, κ. τ. λ. Ed.]

[20] C. 51. (t. 1. p. 976 b.) Ex omni hæresi fidelis si venerit, minime est ad clerum promovendus: vel si qui sunt in præteritum ordinati, sine dubio deponuntur.

[21] B. 4. ch. 3. s. 12. v. 2. p. 50., and the Scholastical History of Lay-Baptism, part 2. ch. 4., [in the ninth volume of this edition.]

[22] C. 18. (t. 2. p. 1170 b.) Ut episcopi, presbyteri, et diaconi non ordinentur, priusquam omnes, qui sunt in domo eorum Christianos Catholicos fecerint.

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tin was present: and there is no question but that it was chiefly designed against the Donatists, though it equally affects all heretics, and Jews and Pagans, and all who secretly by connivance gave any encouragement to them: it being thought absurd to promote those to the government of the Church, who had not zeal or interest enough to secure the practice of true religion within the walls of their own families. And the rule tending directly to discourage heresy, I therefore mention it here as a branch of the ancient discipline worthy our observation.

No one to bring his cause before an heretical judge, under pain of excommunication.

15. Neither can I pass over another rule of the fourth Council of Carthage[23], which forbids Catholics to bring any cause, whether just or unjust, before an heretical judge, under pain of excommunication. This does not indeed deprive heretical judges of their office, to render their decisions null, when the State thinks fit to allow them, as it sometimes did under Constantius and Valens, and other heretical emperors. For the Church has no power in this case, which belongs to the civil, and not the ecclesiastical power, as has been shown before[24]. But the Church had power to lay an injunction upon all her members, not to bring their causes before an heretical judge, by a just analogy to that rule of the Apostle, "not to go to law before the unbelievers." [1 Cor. 6, 1 and 6.] And this was one way to discountenance heresy in men of the highest station: and for this reason we may suppose the Church enjoined it, to give a check to heretics, by obliging Catholics to end their controversies among themselves, and have no communication with heretics or unbelievers.

What term of penance imposed upon relenting heretics.

16. We have hitherto considered the punishments laid upon heretics continuing in their obstinacy and perverseness, and bidding defiance to the communion of the Church. We are now to view the Church's discipline and behaviour toward them, when they showed any disposition to relent and return to the unity of the faith. Now heresy being reckoned among the greatest of crimes, a proportionable term of penance was laid upon it. The Council of Eliberis[25] appoints ten years'

[23] C. 87. (ibid. p. 1206 e.) Catholicus, qui causam suam, sive justam sive injustam, ad judicium alterius fidei judicis provocat, excommunicetur.

[24] Ch. 2. s. 5. p. 81.

[25] C. 22. (t. 1. p. 973 b.) Si quis de Catholica ecclesia ad hæresim

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penance for such as went over from the Catholic Church to any heresy, if ever they returned and made confession of their crime, before they should be admitted to communion. Only an exception is made in the case of infants, because their fault was not their own, but their parents': therefore they are ordered to be received without any delay. The Council of Rome[26], under Felix, sets a more particular mark upon bishops, presbyters, and deacons, who suffered themselves to be rebaptized by heretics, because this was in effect to deny their Christianity, and own that they were Pagans. Such are denied communion, even among the catechumens, all their lives, and only allowed lay-communion at the hour of death. Others are enjoined the same penance[27] as the Council of Nice puts upon lapsers, that is, twelve years, in the several stations of penitents, unless they had the plea of necessity or fear, or danger to excuse them. But if they were children[28], their ignorance and immaturity was a more reasonable plea to shorten their penance, and restore them more speedily to communion. The Council of Agde[29] contracted this term of penance universally for all such lapsers into heresy, reducing it to the terms of three years only. For though the ancient canons imposed a longer penance, yet they saw good reason to relax this severity, and make the conditions of reconciliation a little easier. The Council of Epone[30] repeats and confirms this decree, with a little various

transitum fecerit, rursusque [ad ecclesiam] recurrerit.... decem annis agat pœnitentiam, cui post decem annos præstari communio debet. Si vero infantes fuerint transducti, quia non suo vitio peccaverint, incunctanter recipi debent.

[26] An. 487. c. 2. [ap. Felic. Pap. Ep. 7.] (CC. t. 4. p. 1076 c.)... Ad exitus sui diem in pœnitentia, si resipiscunt jacere conveniet: nec orationi non modo fidelium, sed ne [al. nec] catechumenorum omnimodis interesse, quibus communio laica tantum in morte reddenda est.

[27] C. 3. (ibid. c.) De clericis autem et monachis aut puellis Dei aut sæcularibus servari præcipimus hunc terrorem, quem Nicæna Synodus circa eos, qui lapsi sunt vel fuerint, servandum esse constituit, &c.

[28] C. 4. (ibid. d.) Pueris autem, quibus ..... ignorantia suffragatur ætatis, aliquandiu sub manus impositione detentis, reddenda communio est: nec eorum expectanda pœnitentia, quos excipit a coercitione censura.

[29] C. 60. (ibid. p. 1392 e.) Lapsis, id est, qui in Catholica fide baptizati sunt, si prævaricatione damnabili post in hæresim transierint, grandem redeundi difficultatem sanxit antiquitas. Quibus nos, annorum multitudine breviata, pœnitentiam biennii.. imponimus; ut, præscripto biennio, tertio sine relaxatione jejunent, et ecclesiam studeant frequentare, &c.

[30] C. 29. (ibid. p. 1579 d.) ..... Præscripto biennio, tertia die sine dilatione jejunent, &c.

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reading of one clause, which reduces the term of penance to two years only.

How this varied according to the age and state and condition of several sorts of heretics.

17. It appears from some of the forementioned canons that a great difference was made in the term of penance imposed upon heretics, with respect to the age of the offenders. Children were more favourably dealt with, by reason of their ignorance and want of mature judgment, than adult persons. And we may observe the same difference made in many other cases of the like nature. They, who were baptized and educated in the Catholic faith, were more severely treated, if after that they deserted the Church, and fell into heresy, and especially such heresies as required them to take a new baptism. The foresaid canons chiefly respect deserters, and particularly that one of Felix in the Roman Council, [cited in the preceding section,] such as were rebaptized in heresy: concerning which both the civil and ecclesiastical laws speak with great indignation and severity; the one confiscating the goods of all rebaptizers, and banishing their persons; and the other requiring the rebaptized to go through a long course of penance in order to their readmission to the communion of the Church again; of which the reader may find a more ample account in a former Book[31], under the proper title of *rebaptization.* Whereas they that were born and bred and baptized originally among heretics had more favourable allowances made them, with respect to their difficult circumstances, and great prejudices naturally arising thence. This is expressly said by St. Austin, in one of his Epistles[32] to a Donatist bishop: 'The Church has one way of treating those who desert her, if ever they repent; and another way of treating those who were never before in her bosom, till they come to beg her peace: she humbles the former by a severer discipline, but receives the latter more gently, loving both, and ministering to the cure of both with the charity and affection of a mother.' So again, in his Book of One Baptism, against Petilian[33]: 'We observe this distinction, to

[31] B. 12. ch. 5. s. 7. v. 4. p. 258.

[32] Ep. 48. [al. 93. c. 13.] ad Vincentium. p. 73. (t. 2. p. 253 a.)... Aliter tractat illos, qui eam [scil. ecclesiam] deserunt, si hoc ipsum pœnitendo corrigant; aliter illos, qui in ea nondum fuerunt, et tunc primum ejus pacem accipiunt; illos amplius humilitando, istos lenius suscipiendo, utrosque diligendo, utrisque sanandis materna caritate serviendo.

[33] De Unic. Bapt. c. 12. (t. 9. p. 537 b, c.) Nec illud sine distinctione

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humble those who were once in the Catholic Church, and afterward desert it, with a severer penance than those who were never in it. Neither do we admit them into the clergy, whether they were rebaptized by them, or run over to them, or were clergymen or laymen among them.'

This distinction was particularly observed by the African Synod with relation to such persons as were baptized in their infancy among the Donatists. In the Council of Carthage, anno 397, which is inserted into the African Code[34], a proposal was made that such as had been baptized among the Donatists in their infancy by their parents' fault, without their own knowledge and consent, should upon their return to the Church be allowed the privilege of ordination: and in the next Council the proposal was accepted[35], and a decree passed accordingly in favour of them. The Council of Nice[36] granted the same indulgence to the Novatian clergy; but we rarely find any of those who deserted the Church in which they had been baptized allowed this privilege; the laws being more peremptory against them to debar them from all clerical dignity, and only receive them as private Christians to lay-communion.

Heresiarchs more severely treated

18. Yet considerations of prudence sometimes obliged the Church to dispense with those laws also, and receive even deserters in some cases to clerical dignity again; of which I

præterimus, ut humiliorem agant pœnitentiam qui jam fideles ecclesiam Catholicam deseruerunt, quam qui in illa nondum fuerunt. Nec ad clericatum admittuntur, sive ab hæreticis rebaptizati sint, sive prius suscepti ad illos redierint, sive apud illos clerici vel laici fuerint.

[34] C. 48. [al. 47.] (t. 2. p. 1071 b.) *Ἤρεσεν, ἵνα ἐρωτήσωμεν τοὺς ἀδελφοὺς καὶ συνιερεῖς ἡμῶν Σιρίκιον καὶ Σιμπλικιανὸν περὶ μόνων τῶν νηπίων, τῶν παρὰ τοῖς Δονατισταῖς βαπτιζομένων, μήπως τοῦτο, ὅπερ οἰκείᾳ προθέσει οὐκ ἐποίησαν, τῇ τῶν γονέων πλάνῃ ἐμποδίσῃ αὐτοῖς πρὸς τὸ μὴ προκόπτειν εἰς ὑπουργίαν τοῦ ἁγίου θυσιαστηρίου, ὅταν πρὸς τὴν τοῦ Θεοῦ ἐκκλησίαν προθέσει ἐπιστρέψωσι.*

[35] Vid. Cod. Afric. c. 58. [al. 57.] (ibid. p. 1083 b.) *Ἐπειδὴ ἐν τῇ ἀνωτέρᾳ συνόδῳ ὁρισθὲν μέμνηται ἅμα ἐμοὶ ἡ ὑμετέρα ὁμοψυχία, ὥστε τοὺς παρὰ τοῖς Δονατισταῖς μικροὺς βαπτιζομένους, μηδέπω δυναμένους γινώσκειν τῆς πλάνης αὐτῶν τὸν ὄλεθρον, μετὰ τὸ εἰς κεῖραν λογισμοῦ δεκτικὴν παραγενέσθαι, ἐπιγνωσθείσης τῆς ἀληθείας, τὴν φαυλότητα ἐκείνων βδελυττομένους πρὸς τὴν Καθολικὴν τοῦ Θεοῦ ἐκκλησίαν, τὴν ἀνὰ πάντα τὸν κόσμον διακεχυμένην, τάξει ἀρχαίᾳ διὰ τῆς ἐπιθέσεως τῆς χειρὸς ἀναδεχθῆναι, τοὺς τοιούτους ἐκ τοῦ τῆς πλάνης ὀνόματος μὴ ὀφείλειν ἐμποδίζεσθαι εἰς τάξιν κληρώσεως, ὁπόταν τὴν ἀληθινὴν ἐκκλησίαν ἰδίαν ἑαυτῶν ἐλογίσαντο, τῇ πίστει προσερχόμενοι, καὶ ἐν αὐτῇ τῷ Χριστῷ πιστεύσαντες τῆς Τριάδος τὰ ἁγιάσματα ὑπεδέξαντο.*

[36] C. 8. (ibid. p. 32 e.) *Περὶ τῶν ὀνομαζόντων μὲν ἑαυτοὺς Καθαρούς ποτε, προσερχομένων δὲ τῇ Καθολικῇ ἐκκλησίᾳ, ἔδοξε τῇ ἁγίᾳ καὶ μεγάλῃ συνόδῳ, ὥστε χειροθετουμένους μένειν οὕτως ἐν τῷ κλήρῳ.*

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than their followers.

have given some instances[37] in a former Book. But then she always set a mark of infamy upon heresiarchs, or first founders of heresy, making a distinction between them and those that followed them: allowing the one sometimes to continue in the clerical function upon their repentance, but commonly degrading the other without hopes of restitution. St. Austin takes notice of this difference in the case of the Donatists. He says[38], 'The Church of Afric observed this moderation from the beginning toward them, according to the decree made by those in the Roman Church, who were appointed to judge and decide the dispute between Cæcilian and the party of Donatus: they condemned only Donatus, who was proved to be the author of the schism; but ordered the rest to be received in their clerical honours upon their repentance, although they were ordained out of the Catholic Church.'

And voluntary deserters more severely than they who complied only out of fear.

19. Another distinction was made, as in the case of lapsers into idolatry, between such heretics as voluntarily deserted the Church out of choice and those who complied with heretical errors only by force and compulsion, being terrified into them by the violence of some persecution. In this latter case bishops were allowed to moderate their penance, as the circumstances of the matter seemed to require. As appears from the direction given by Pope Leo[39] to the bishop of Aquileia, concerning the penance of such as were compelled by fear and violence offered to them by certain heretics to submit to a second baptism: they were to be put under penance, he says, for some time, but a moderation was to be used in the term of it according to the bishop's discretion.

A difference made between such

20. Another difference was made between such heretics as retained the due form of baptism and those who wholly rejected

[37] B. 4. ch. 7. ss. 7, 8. v. 2. pp. 98–100.

[38] Ep. 50. p. 87. [al. 185. c. 10.] ad Bonifac. (t. 2. p. 661 g.) Hoc erga istos ab initio servavit Africa Catholica, ex episcoporum sententia, qui in ecclesia Romana inter Cæcilianum et partem Donati judicaverunt, damnatoque uno quodam Donato, qui auctor schismatis fuisse manifestatus est, cæteros correctos, etiamsi extra ecclesiam ordinati essent, in suis honoribus suscipiendos esse censuerunt.

[39] Ep. 77. ad Nicetam, c. 6. (CC. t. 3. p. 1372 d.) Qui ad iterandum baptismum vel metu coacti sunt, vel terrore [al. errore] traducti, his ea custodienda est moderatio, qua in societatem nostram non nisi per pœnitentiæ remedium et per impositionem episcopalis manus communionis recipiant unitatem, temporis pœnitudinis habita moderatione, tuo constituenda judicio, &c.

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it or corrupted it in any essential part. The former were to be received only by imposition of hands, confessing their error, as having received a true baptism though out of the Church before; but the others were to be received only as Heathens, having never been truly baptized, and therefore were obliged to receive a new baptism to make them members of the Church. Of which, because I have given a full account elsewhere[40], I need say no more in this place.

heretics as retained the form of baptism and such as rejected or corrupted it.

21. Finally, they made some distinction between such heretics as contumaciously resisted the admonitions of the Church and such as never had any admonition given them, or amended quietly upon the first admonition. Men might entertain very dangerous errors, but till the Church had given them a first and second admonition, according to the Apostle's rule, they were not reputed formal heretics, nor treated as such, till they joined contumacy to their error. St. Austin[41] puts the case thus between two men, who are equally involved in the error of Photinianism, denying the divinity of Christ; but the one is baptized in heresy out of the communion of the Catholic Church; the other is baptized in the Catholic Church, having the same error, which he believes to be the Catholic faith: 'I do not yet call this man an heretic, unless when the doctrine of the Catholic faith is declared to him he chooses rather to resist it and hold to his former opinion: before he does this, he that is baptized out of the Church is plainly the worse of the two. But that man is worse than both the former, who, knowing this opinion which he holds only to be taught among heretics divided from the Church, yet for some secular end

No one to be reputed a formal heretic before he contumaciously resisted the admonition of the Church.

[40] B. 11. ch. 2 and 3. v. 4. pp. 16, 17., and Scholastic History of Lay-Baptism, part 1. ch. 1. s. 20, &c. [in the ninth volume of this edition.]

[41] De Bapt. l. 4. c. 16. (t. 9. p. 135 c.) Constituamus ergo duos aliquos isto modo, unum eorum, verbi gratia, id sentire de Christo, quod Photinus opinatus est, et in ejus hæresi baptizari extra ecclesiæ Catholicæ communionem: alium vero hoc idem sentire, sed in Catholica baptizari, existimantem istam [al. ipsam] esse Catholicam fidem. Istum nondum hæreticum dico, nisi manifestata sibi doctrina Catholicæ fidei resistere maluerit, et illud, quod tenebat, elegerit; quod ante quam fiat, manifestum est illum, qui foris baptizatus est, esse pejorem... Quod si quisquam idem sentiat quod illi, et esse noverit hæresin, ab unitate Catholica separatam, ubi hoc docetur et discitur, sed alicujus sæcularis emolumenti causa in Catholica unitate baptizari voluerit, vel in ea baptizatus propter hoc exire inde noluerit: non solum separatus habendus est, verum etiam tanto sceleratius, [leg.? sceleratior,] quanto magis errori hæresis et divisioni unitatis fallaciam simulationis adjungit.

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and advantage chooses to be baptized in the Church and continue in it after baptism: this man is not only to be accounted a separatist, but so much the more wicked one for adding heresy to his error, and dissimulation and hypocrisy to the division of the faith.' In another place[42] he says, 'they are properly heretics, who, when they are reproved for their unsound opinions, contumaciously resist; and instead of correcting their pernicious and damnable doctrines, persist in the defence of them, and leave the Church and become her enemies. But they who defend not their opinion, though false and perverse[43], with any pertinacious animosity, especially if they were not the first broachers of it, but received it from the seduction of their parents, and were careful in their inquiries after truth, being ready to embrace it when they found it; they were not to be reckoned among heretics.' And with much stronger reason we have heard him say before[44], 'that a man who in extreme necessity received baptism from heretics, when he could not have a Catholic to administer it to him, was in no fault, because his mind and will was still united to the Catholic Church.' From all which it is easy to discern how great a difference they made in the degrees of heresy and its guilt, and how the discipline of the Church was managed in a great measure according to these distinctions.

The like distinctions observed in inflicting the censures of the Church upon schismatics, according to the different nature and various degrees of their schism.

22. I have already shown[45] that a like discrimination was made between schismatics of different kinds, and that the censures of the Church were inflicted on them only in proportion to the quality of their offence, observing the different nature and various degrees of their separation or schism. Some only absented from church for a short time, suppose two or three Lord's-days successively, without any justifiable reason for it: and it was thought sufficient to correct such by a moderate punishment of as many weeks' suspension. Others attended some part of the service, suppose the sermon, and the psal-

[42] De Civitat. Dei, lib. 18. c. 51. (t. 7. p. 533 c.) Qui ergo in ecclesia Christi morbidum aliquid pravumque sapiunt, si correpti ut sanum rectumque sapiant, resistunt contumaciter; suaque pestifera et mortifera dogmata emendare nolunt, sed defensare persistunt; hæretici fiunt et, foras exeuntes, habentur in exercentibus inimicis.

[43] Ep. 162. [al. 43. c. 1.] See before, ch. 1. s. 16. p. 58. n. 20.

[44] De Bapt. l. 1. c. 2.—l. 6. c. 5.—l. 7. c. 52. See before, ch. 1. s. 4. pp. 16, 17. nn. 33, 34, 35.

[45] Ch. 1. s. 5. pp. 18–26.

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mody, and the first prayers for the catechumens; but then withdrew, as if they had been penitents, when the service of the faithful or the communion office came on, and the eucharist was to be offered and received by all that were not for some fault excluded from it: and these, as greater criminals, were denied the privilege of making any oblations, and excluded for some time from all other holy offices of the Church. A third sort of separatists, which are most properly called *schismatics*, were such as withdrew totally and universally from the communion of the Church; pretending that her communion was polluted and profane by the mixture of sinners; or finding out other such reasons to charge her with sinful terms of communion, and justify their own separation by many the like pretences, of which the history of the Novatians and Donatists affords many instances. Now, against these the Church commonly proceeded more severely, using the highest censure of excommunication or anathema, as against more professed and formal schismatics, and destroyers of that inviolable unity and peace, which ought to be most sacredly preserved in the body of Christ.

Of all which schismatics and their punishments, because I have spoken particularly before in discoursing of the unity of the Church[45], I need say no more in this place, but proceed to another crime, that of *sacrilege*, which comes next in order to be considered.

Of sacrilege, particularly of diverting things appropriated to sacred uses to other purposes.

23. The Roman casuists[46] are wont to call many things *sacrilege*, which the Ancients reckoned no crimes at all: as the laying taxes or tribute upon ecclesiastics by the civil power, without the consent of the Pope, for which secular princes are excommunicated by the famous Bull *In Cœna Domini*, as they call it: and the bringing ecclesiastical persons for any crime before the secular tribunals. Some other things they brand with the odious name of sacrilege, which many of the Ancients reckoned to be virtues, and instances of zeal and piety towards God: as the removing of images out of all places of divine worship; for which the Council of Eliberis, and Epiphanius,

[45] [See before, ch. 1, particularly ss. 6 and 7, pp. 26–37. Ed.]

[46] Vide Lessium, De Jure et Justitia, l. 2. c. 45. dubitat. 3. (p. 592.) Quomodo species sacrilegii sint distinguendæ.—Dubitat. 4. (p. 594.) Quando sacrilegium censendum sit esse peccatum mortiferum, quando veniale.

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and many others, were so remarkable in ancient history, who yet, if we were to speak in the style and language of these modern casuists, were to be reckoned guilty of the horrid sin of sacrilege. Since therefore the matter stood thus, we are not to expect to find any punishments in the penitential discipline of the ancient Church allotted to such mere pretended crimes and imaginary vices.

But against real sacrilege, none could be more zealous than the Ancients. Particularly against diverting any thing to private use, which was given to the public service of the Church. 'If any one,' say the Apostolical Canons[47], 'either of the clergy or laity, take wax or oil out of the church, let him be cast out of communion, and make restitution with the addition of a fifth part.' And again[48], 'Let no one divert to his own use any of the sacred utensils of gold, or silver, or linen; for it is a flagitious thing: and if any one be apprehended so doing, let him be excommunicated.' So likewise in the fourth Council of Carthage[49]: 'Let those, who deny the Church such oblations as are given by the dead, or give them not without difficulty, be excommunicated as murderers of the poor.' And the second Council of Vaison[50]: 'They who detain the oblations and refuse to give them to the Church, are to be cast out of the Church as infidels; for such a provocation of God is a denying of the faith: both the faithful, who are gone out of the body, are defrauded of the plenitude of their vows, and the poor also of the comfort of their food and necessary subsistence. Such are to be esteemed murderers of the poor, and infidels with respect

[47] C. 72. [al. 71.] (Cotel. [c. 64.] v. 1. p. 446.) Εἴ τις κληρικὸς, ἢ λαϊκὸς, ἀπὸ τῆς ἁγίας ἐκκλησίας ἀφέληται κηρὸν ἢ ἔλαιον, ἀφοριζέσθω, καὶ τὸ ἐπίπεμπτον προστιθέτω, μεθ' οὗ ἔλαβεν.

[48] C. 73. [al. 72.] (Cotel. [c. 65.] ibid.) Σκεῦος ἀργυροῦ, ἢ χρυσοῦ, ἢ ὀθόνης, ἁγιασθὲν, μηδεὶς ἔτι εἰς οἰκείαν χρῆσιν σφετεριζέσθω· παράνομον γάρ· εἰ δέ τις φωραθείη, ἐπιτιμάσθω ἀφορισμῷ.

[49] C. 95. (t. 2. p. 1207 b.) Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tanquam egentium necatores, excommunicentur.

[50] C. 4. (t. 3. p. 1457.) Qui oblationes defunctorum [fidelium] retinent, et ecclesiis tradere demorantur, ut infideles sunt ab ecclesia abjiciendi: quia usque ad inanitionem fidei pervenire certum est hanc pietatis divinæ exacerbationem: quia et fideles de corpore recedentes fraudantur votorum suorum plenitudine, et pauperes consolatu [al. collatu] alimoniæ, et necessaria sustentatione fraudantur. Hi enim tales quasi egentium necatores, nec credentes judicium Dei, habendi sunt. Unde et quidam Patrum.. ait, *Amico quippiam rapere, furtum est; ecclesiam vero fraudare, sacrilegium.*

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to the judgment of God: whence one of the Fathers says, To take from a friend, is theft; but to defraud the Church, is sacrilege.' This is cited from St. Jerom[51]: and St. Ambrose[52] goes a little further, and says, 'they who give their own estates to the Church, and then in a fickle humour retract and revoke them again, like Ananias and Sapphira, lose the reward both of their first and second action: the first act is void of judgment, and the second is downright sacrilege.' Therefore whether a man retracted what he himself had given to the Church, or detained what was given by others, or robbed her of what she was actually possessed of, it was all the same species of sacrilege, and the Canons[53] equally punish them all with the

[51] [Ep. 2. [al. 52.] ad Nepotian. (t. 1. p. 267 b. n. 16.) Amico quippiam rapere, furtum est: ecclesiam fraudare, sacrilegium est. Ed.]

[52] De Pœnitent. l. 2. c. 9. (t. 2. p. 434 d. n. 85.) Sunt, qui opes suas tumultuario mentis impulsu, non judicio perpetuo, ubi ecclesiæ contulerunt, postea revocandas putaverunt. Quibus nec prima merces rata est, nec secunda: quia nec prima judicium habuit et secunda habuit sacrilegium.

[53] C. Agathens. c. 4. (t. 4. p. 1383 c.) Clerici etiam vel sæculares, qui oblationes parentum, aut donatas, aut testamentis relictas, retinere perstiterint, aut id, quod ipsi donaverint ecclesiis vel monasteriis, crediderint auferendum, sicut synodus sancta constituit, velut necatores pauperum, quousque reddant, ab ecclesiis excludantur.—C. 5. (ibid. d.) Si quis clericus furtum ecclesiæ fecerit, peregrina ei communio tribuatur.—C. 6. (ibid. d.) Pontifices vero, quibus, in summo sacerdotio constitutis, ab extraneis duntaxat, aliquid, aut cum ecclesia aut sequestratim, aut dimittitur aut donatur, quia hoc ille, qui donat pro redemptione animæ suæ, non pro commodo sacerdotis probatur offerre; non quasi suum proprium, sed quasi dimissum ecclesiæ, inter facultates ecclesiæ computabunt: quia justum est, ut sicut sacerdos habet, quod ecclesiæ dimissum est, ita et ecclesia habeat, quod relinquitur sacerdoti.—C. Arelatens. 2. c. 28. [juxt. Ed. Crabb. (t. 1. p. 294.) Secundum constitutionem Synodi Vasensis, qui oblationem fidelium suppresserit, aut negaverit, ab ecclesia, cui fraudem fecit, excludatur.—This is canon 4, according to Labbe's edition of this Council, (see t. 4. p. 1016 d.) Crabbe terms it *locus obscurus* in the margin, while he introduces the last five canons of the Council, viz. from 26 to 30 inclusive, with the following preface: *Capita hæc sequentia, quia superius titulos non habent, præferunt nescio quid, præterquam quod multa obscuritate laborant. Certe huc non spectare liquido constat ex hoc, quod Synodum Vasensem allegant, quæ longe post hanc Arelatensem habita fuit tempore Leonis.* Ed.]—Conf. C. Turon. 2. c. 24. (t. 5. p. 863 e.) Illud quoque, &c. — [juxt. Crabb. c. 25. (t. 2. p. 142.) Illud quoque, &c.—To the same purport, and closing with this decree:—Convenit, eos omnino una conniventia simul, cum nostris abbatibus ac presbyteris, vel clero, qui stipendiis ex ipso alimento pascuntur, quia arma nobis non sunt alia, auxiliante choro, circumsepto clericali choro, necatori pauperum, qui res pervadit ecclesiæ, Psalmus 108.* dicatur; ut veniat super eum illa maledictio, quæ super

[* The 109th of the Authorized Version. Ed.]

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same sentence of excommunication; reducing clergymen, when found guilty of this crime, to the communion of strangers, which was a punishment peculiar to them, of which more hereafter.

I have already shown in a former Book[54] that for this reason bishops, who were intrusted with the goods and revenues of the Church, were not allowed to alienate any part of them, except it were in great necessity, to relieve the poor, or redeem captives; in which case, St. Ambrose himself, and many others, disposed of the plate of the altar, and the vessels and utensils belonging to the church; thinking it better that the inanimate temples of God should want their ornaments, than that his living temples should perish for want of relief. This was not sacrilege in the eye of the law, either ecclesiastical or civil, but an act of mercy allowed by both: for the laws against sacrilege, next to the honour of God, had always a view to the necessities of the poor: and therefore as this practice tended to relieve them in great exigencies, it was just the reverse of that inhuman sacrilege, which the Ancients called 'murdering the poor,' against which so many severe laws were made to abolish and correct it.

Of sacrilege committed in robbing of graves.

24. Another great crime of near a-kin to the former, which was sometimes condemned and punished under the name *sacrilege*, was robbing of graves, or defacing and spoiling the monuments of the dead. These were always esteemed a sort of sacred repositories and inviolable sanctuaries, even by the very Heathen, as appears from the edict of Julian[55], and what Gothofred[56] has collected at large out of the old laws and Heathen writers upon the subject. And the violation of them was always esteemed a piacular crime, and sometimes punished with death. The imperial laws made it capital, and therefore when

Judam venit, qui, dum loculos faceret, subtrahebat pauperum alimenta, ut non solum excommunicatus, sed etiam anathema moriatur, et cœlesti gladio feriatur, qui in despectu Dei et ecclesiæ et pontificum, in hac pervasione præsumit assurgere.—According to Labbe, this decree forms c. 25. (ibid. p. 864 e.) and is to the same purport, though the readings somewhat vary. Ed.]

[54] B. 5. ch. 6. ss. 6. and 7. v. 2. pp. 187—190.

[55] Cod. Theod. l. 9. tit. 17. de Sepulcris, leg. 5. (t. 3. p. 144.) Pergit audacia ad busta diem functorum, et aggeres consecratos: cum et lapidem hinc movere, terram solicitare, et cespitem vellere, proximum sacrilegio majores semper habuerint.

[56] In leg. 2. ibid. (pp. 139, seqq.)

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the Christian emperors at Easter granted their indulgence or pardon to criminals in prison[57], they still excepted robbers of graves among those other flagitious criminals which were to have no benefit from their indulgence, as has been shown before[58], in speaking of those called *atrocia crimina, great* and *capital crimes.* That which tempted men to commit this wickedness, was, that often riches and jewels were buried with the dead, and fine marble pillars and statues, ornaments and monuments, were erected over their graves; all which became spoil and plunder to such as were impiously and sacrilegiously disposed to invade them.

Now as the imperial laws prosecuted such criminals with suitable punishments, fines, tortures, transportation, and death; so the ecclesiastical laws pursued them with spiritual penalties, agreeable to her spiritual regimen and jurisdiction. Gregory Nyssen[59] says, 'the holy fathers teach us to place the violation of burial places among those sins which are to be expiated by public penance.' But he distinguishes two degrees of this crime[60]: the one punishable by ecclesiastical censure, the other not so. For if any one took the stones or materials, which are usually cast up before the burial places of the dead, and applied them to some other useful purpose, without exposing the corpse to the air or light, or offering any abuse or injury to it: though this was not commendable or allowable; for indeed the Civil Law[61] absolutely forbad it, as was said before;

[57] Ibid. tit. 38. de Indulgentiis Criminum, legg. 3, 4, 7, 8. See before. ch. 4. s. 2. p. 197. nn. 3, 4, 5. —Conf. Valentin. Novel. 5. de Sepulchr. Ad calc. Cod. Theod. (t. 6. append. p. 22.) Diligenter, quidem, &c.

[58] Ch. 4. s. 2, of this Book, p. 197.

[59] Ep. Canonic. ad Letoïum, c. 6. (t. 2. p. 121 d.) *Μόνην τὴν κλοπὴν, καὶ τὴν τυμβωρυχίαν, καὶ τὴν ἱεροσυλίαν, πάθη νομίζομεν· διὰ τὸ οὕτως ἐκ τῆς τῶν πατέρων ἀκολουθίας τὴν παράδοσιν ἡμῖν περὶ τούτου γενέσθαι.*

[60] C. 7. (p. 122 c.) *Ἡ δὲ τυμβωρυχία καὶ αὐτὴ διῄρηται εἰς τὸ σύγγνωστόν τε καὶ ἀσύγγνωστον. Εἰ μὲν γάρ τις, τῆς οὐσίας φειδόμενος, καὶ ἄσυλον ἀφεὶς τὸ κεκρυμμένον σῶμα, ὡς μὴ ἀναδειχθῆναι ἡλίῳ τὴν ἀσχημοσύνην τῆς φύσεως, λίθοις τισὶ τῶν ἐν τῷ τάφῳ προβεβλημένων συγχωρήσαιτο εἰς ἔργου τινὸς κατασκευήν· ἐπαίνετον μὲν οὐδὲ τοῦτό ἐστιν· πλὴν ἀλλὰ σύγγνωστον ἐποίησεν ἡ συνήθεια, ὅταν εἰς προτιμότερόν τι καὶ κοινωφελέστερον ἡ τῆς ὕλης μετάθεσις γίνηται.*

[61] Cod. Theod. l. 9. tit. 17. de Sepulcris Violatis, leg. 1. (t. 3. p. 137.) Si quis in demoliendis sepulchris fuerit apprehensus, si id sine domini conscientia faciat, metallo adjudicetur: si vero domini auctoritate vel jussione urgetur, relegatione plectatur.—Leg. 2. (p. 138.) Factum, solitum sanguine vindicari, mulctæ inflictione corrigimus: atque ita supplicium statuimus in futurum, ut nec ille abeit a pœna, qui ante commisit. Universi itaque, qui de monumentis columnas vel marmora ab-

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yet custom however exempted this from any public punishment in the Church, because there was some benefit in it by an application of the materials to a more useful purpose; and as Gothofred[62] also observes, 'there was something of seeming zeal in it, to demolish the Heathen altars and images, which were often erected at the graves of Pagans.' But then, as Gregory[63] adds, 'there was another degree of this crime, which was more horrible, when men raked into the ashes of the dead, and disturbed their bones, in pursuit of treasure, cloths or other ornaments, that might be buried with them:' and this, he says, was punished with the same term of penance as simple fornication; that is, nine years in the several stations of repentance. The fourth Council of Toledo[64] makes it a double punishment for any clergyman to be guilty of this crime: 'If any clerk is apprehended demolishing sepulchres, forasmuch as this is a crime of sacrilege punishable with death by the public laws, he ought by the canons to be deposed from his orders, and after that do three years' penance for such his transgression.' The reader that pleases may see elegant invectives against this crime in Sidonius Apollinaris[65] and St.

stulerunt, vel coquendæ calcis gratia lapides dejecerunt, ex consulatu scilicet Dalmatii et Zenophili, singulas libras auri per singula sepulchra fisci rationibus inferant, &c.—Leg. 3. (p. 142.) Quosdam comperimus, lucri nimium cupidos, sepulchra subvertere et substantiam fabricandi ad proprias ædes transferre, hi detecto scelere animadversionem priscis legibus definitam subire debebunt.

[62] In leg. 5. ibid. (p. 145.) Scilicet Antiocheni Christiani non modo ornatum sepulchrorum minuebant, ex porticibus et tricliniis sepulchralibus columnas et marmora ad ædificia sua transferentes, verum etiam sepulchra dissipabant, terra solicitata, cespite vulso, titulis etiam procul dubio erasis, statuisque et aris detractis. Fuit hæc scilicet Christianorum, invalescente Christiana religione, ut in templis, ita et sepulchris evertendis, ut Julianus vocare voluit, *audacia*, sive potius zelus; qui si remissior fuisset, tituli saltem stetissent, cadavera ipsa non inquietarentur: et hoc fine stetisset superstitionis eversio, bonum factum pronuntiarent omnes: sed id ita exigere visa sunt tempora: et nec quicquam, id est, frustra a Christianis ante Julianum imperatoribus, civilibus de causis, a Juliano vero religionis majorum amore, ut hoc edicto satis indicat, repressum.

[63] [Ubi supra, c. 7. (ibid. p. 122 c.) Τὸ δὲ διερευνᾶσθαι τὴν κόνιν ἀπὸ τῆς γεωθείσης σαρκὸς, καὶ ἀνακινεῖν τὰ ὀστᾶ, ἐλπίδι τοῦ κόσμον τινὰ τῶν συγκατορυχθέντων κερδᾶναι, τοῦτο τῷ αὐτῷ κρίματι κατεδικάσθη, ᾧ καὶ ἡ ψιλὴ πορνεία, κ. τ. λ. *Grischov.*]

[64] C. 45. [al. 46.] (t. 5. p. 1717 b.) Si quis clericus in demoliendis sepulchris fuerit deprehensus, quia facinus hoc pro sacrilegio legibus publicis sanguine vindicatur: oportet canonibus in tali scelere proditum, a clericatus ordine submoveri, et pœnitentiæ triennio deputari.

[65] L. 3. Ep. 12. (p. 206.) Avi mei, proavi tui tumulum, &c.

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Chrysostom[66], who justly represent it as one of the most unnatural and inhuman barbarities that can be offered to the nature of man, because the dead are altogether innocent and passive, and in a condition to excite pity and compassion only; being destitute and without ability to resist or right themselves against invaders.

The sacrilege of the ancient *traditores*, who delivered up their Bibles and holy utensils to the Heathen to be burnt.

25. Another sort of men, who were anciently accused and condemned as sacrilegious persons, were those whom they commonly called *traditores*, for *delivering up* their Bibles, and other sacred utensils of the Church, to the Heathen to be burnt, in the time of the Diocletian persecution. The first Council of Arles[67], held immediately after the persecution, makes it deposition from his order for any clergyman, who could be convicted of the public acts of this crime, either of betraying the Scriptures, or any of the holy vessels, or the names of his brethren, to the persecutors. The Donatists frequently, but falsely, objected this crime to Cæcilian, bishop of Carthage, and those that ordained him, that they were *traditores:* upon which St. Austin[68] tells them, 'that if they could evidently make good the charge, the Catholics would not scruple to anathematize them after death.' But the truth of the matter was, these very objectors were *traditores* themselves, though they had the impudence to absolve one another, while they threw the charge upon innocent men, as Optatus[69] and St. Austin[70] show

[66] Hom. 35. in 1 Cor. p. 6. (t. 10. p. 330 c.) . . . . . Οὐδὲ τελευτήσας τῆς τῶν ληστευόντων κακουργίας ἀπήλλακται, κ. τ. λ.

[67] C. 13. (t. 1. p. 1421 d.) De his, qui Scripturas sanctas tradidisse dicuntur, vel vasa Dominica, vel nomina fratrum suorum, placuit nobis, ut quicunque eorum in [al. ex] actis publicis fuerit detectus, non verbis nudis, ab ordine cleri amoveatur.

[68] Ep. 1. [al. 185. c. 1.] ad Bonifac. (t. 2. p. 644 d.) Testimoniis enim divinis lites suas præferunt, quia in causa Cæciliani, quondam ecclesiæ Carthaginensis episcopi, cui crimina objecerunt, quæ nec potuerunt probare, nec possunt, se ab ecclesia Catholica, hoc est, ab unitate omnium gentium diviserunt. Quamvis et si vera essent, quæ ab eis objecta sunt Cæciliano, et nobis possent aliquando monstrari, ipsum jam mortuum anathematizaremus.—Ep. 152. [al. 141.] ad Donatist. (ibid. p. 458 c, d.) Nam cum ventum fuisset ad causam etiam Cæciliani, quam nos ab ecclesiæ causa distinguebamus, ut si forte malus esset inventus, ipsum anathematizaremus, &c. . .—Ibid. (p. 459 b.) In ipsa causa Cæciliani, quam licet ad ecclesiæ causam non pertinentem, tamen defendendam suscepimus, ut etiam ibi calumniæ manifestarentur ipsorum, apertissime victi sunt, nihilque eorum, quæ in Cæcilianum intendebant, probare potuerunt.

[69] L. 1. p. 39. (p. 30.) Jamdudum opinionis incertæ, et inter caligines, quas livor et invidia exhalaverat, latere veritas videbatur. Sed etiam omnis Scriptura memorata, et Actorum voluminibus, et Epistolis commemoratis aut lectis revelata est. Vides, frater Parmeniane, in Catho-

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out of the Acts of their own Council of Cirta, where they acted this comedy, which stood as a witness against them.

The sacrilege of profaning the sacraments, and churches, and altars, and the Holy Scriptures, &c.

26. Neither was this the only sacrilege the Donatists were guilty of, but they and their accomplices stand charged with many others. Optatus[71] objects to them their breaking and burning the communion-tables which they found in the Catholic churches. And their profaning the holy sacrament in a most vile manner, of which he gives a most remarkable instance. Some of the Donatist bishops, in their mad zeal, ordered the eucharist which they found in the Catholic churches to be thrown to the dogs; but not without an immediate sign of divine vengeance upon them: for the dogs, instead of devouring the elements, fell upon their masters, as if they had never known them, and tore them to pieces, as robbers, and profaners of the holy body of Christ: which makes Optatus[72] put them in mind of that admonition of our Saviour, "Give not that which is holy unto the dogs, neither cast ye your pearls before swine, lest they trample them under their feet, and turn again and rend you." [Matth. 7, 6, 7.] It was a like profanation of the holy eucharist, which Cornelius[73] charges upon No-

licos traditorum nomine falso objecto, frustra esse inventum [al. invectum]: mutans videlicet personas et transferens merita: clausisti oculos, ne parentes tuos reos agnoscere: aperuisti eos, ut innocentes et indignos crimini copulares.

[70] Cont. Crescon. l. 3. c. 27, &c. (t. 9. pp. 449, 452.—Conf. Ep. 152. [al. 141.] (t. 2. p. 459 b, c.) Insuper etiam de criminibus traditionis nos Episcopalia Gesta protulimus, unde recitavimus aliquos eorum episcoporum, qui sententias in absentem dixerant Cæcilianum, manifestissimos fuisse traditores. Contra ipsa Gesta illi, quia non habebant quod dicerent, falsa esse dixerunt; sed nullo modo probare potuerunt.

[71] L. 6. pp. 94, 95. (p. 111.) Quid est tam sacrilegum, quam altaria Dei, in quibus et vos aliquando obtulistis, frangere, radere, removere .... Quid est altare, nisi sedes et corporis et sanguinis Christi? Hæc omnia furor vester aut rasit, aut fregit, aut removit ... Ut removerentur, ex parte verecundia jussit: ubique tamen nefas est, dum tantæ rei manus sacrilegas et impias intulistis. Quid perditorum conductam referam multitudinem, et vinum in mercedem sceleris datum? Quod ut immundo ore sacrilegis haustibus biberetur, calida de fragmentis altarium facta est.

[72] L. 2. p. 55. (p. 50.)...Ne dederitis sanctum canibus, neque miseritis margaritas ante porcos, ne conculcent pedibus suis eas, et conversi elidant vos.

[73] Ep. ad Fabium, ap. Euseb. l. 6. c. 43. (v. 1. p. 315. 3.) Ποιήσας γὰρ τὰς προσφορὰς, καὶ διανέμων ἑκάστῳ τὸ μέρος, καὶ ἐπιδιδοὺς τοῦτο ὀμνύειν ἀντὶ τοῦ εὐλογεῖν τοὺς ταλαιπώρους ἀνθρώπους ἀναγκάζει, κατέχων ἀμφοτέραις ταῖς χερσὶ τὰς τοῦ λαβόντος, καὶ μὴ ἀφεὶς, ἔστ' ἂν ὀμνύοντες εἴπωσι ταῦτα· τοῖς γὰρ ἐκείνου χρήσομαι λόγοις· Ὄμοσόν μοι κατὰ τοῦ σώματος καὶ τοῦ αἵματος τοῦ Κυρίου ἡμῶν Ἰησοῦ Χριστοῦ, μηδὲ ποτέ με καταλιπεῖν, καὶ ἐπιστρέψαι πρὸς Κορνήλιον.

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vatian, when he obliged his partizans, instead of saying Amen! at the reception of it, to swear by the body and blood of Christ that they would never desert his party, nor return to Cornelius. It was also reckoned a piece of sacrilege to give the Catholic churches to heretics, in which St. Ambrose stoutly opposed the younger Valentinian, when he sent him an order to deliver up one of the churches of Milan to the Arians; he returned him this courageous answer[74]: 'Those things which are God's are not subject to the Emperor's power. If my patrimony is demanded, you may invade it; if my body, I will offer it of my own accord. I will not fly to the altar and supplicate for life, but more joyfully sacrifice my life for the altar.' There are some instances of men turning churches into stables[75]: but as these were very abominable, so there were but few that fell into such prodigious profanations.

We may reckon also all sorts of idolatry, and divination, and magic, and the abuse of Scriptures for lots and charms and amulets, among the species of sacrilege, as some of the ancient Councils[76] do: but I have spoken fully of these under former heads, [in the third and following sections of the fifth chapter,] and therefore there is no occasion here to repeat them. I only add, that to molest or hinder a clergyman in the performance of his proper office by avocation to other business, and laying him under a necessity of following other employments, inconsistent with the duties of his proper station and function, is in the Civil Law called sacrilege. Constantine in

[74] Ep. 33. [al. 20.] ad Marcellin. de Tradendis Basilicis. (t. 2. p. 854 c. n. 8.)..... Ea, quæ sunt divina, imperatoriæ potestati non esse subjecta. Si patrimonium petitur, invadite: si corpus, occurram. Vultis in mortem? Voluptati est mihi. Non ego me vallabo circumfusione populorum, nec altaria tenebo vitam obsecrans, sed pro altaribus gratius immolabor.

[75] Vid. Baron. an. 572. (t. 7. p. 575.) Charibertus rex, cum, exosis clericis, ecclesias Dei negligeret, despectisque sacerdotibus, magis in luxuriam declinasset; ingestum est ejus auribus, locum quendam, quem basilica S. Martini diuturno tempore retinebat, sisti suo juri reddique debere: loco autem illi Navicellis nomen prisca vetustas indiderat. Qui, accepto iniquo consilio, pueros velociter misit, qui remiculam illam in suo dominio subjugarent. Cumque hæc recte possidens videretur habere, jussit in locum illum stabularios cum equitibus dirigi, ibique sine æquitatis ordine præcepit equos ali.

[76] Vid. C. Tolet. 4. c. 28. (t. 5. p. 1714 b.) Si episcopus, aut presbyter, sive diaconus, aut quilibet ex ordine clericorum, magos, aut aruspices, aut ariolos, aut certe augures vel sortilegos, vel eos qui profitentur artem aliquam, aut aliquos eorum similia exercentes, consulere fuerit deprehensus, ab honore dignitatis suæ depositus pœnam excipiat, ibique perpetuæ pœnitentiæ deditus scelus admissum sacrilegii luat.

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his first settlement of religion made a law[77], 'that they who ministered in the service of God should be excused from all personal duties in the State; that the sacrilegious envy of some who gave them disturbance might not withdraw them from the service of religion.' And agreeable to the tenour of this law we find a rule of the Church as ancient as St. Cyprian[78], 'that no one should employ a clergyman in the business of a secular trust, to be a guardian or curator of his worldly concerns by his last will and testament, under the penalty of excommunication, or having his name blotted out of the diptychs of the Church after death.'

There is an abundance of laws in the Theodosian Code, beside that of Constantine, settling great privileges, exemptions, and immunities upon the clergy, in regard to their office; as also upon churches, in regard to the respect and veneration that is due to them as the houses of God and places of divine worship: upon which account they were made sanctuaries or places of refuge for men in certain proper cases, whence they might not be taken by violence without the imputation of a sort of sacrilege fixed on the invaders. But of all these privileges and immunities I have had occasion to discourse at large before[79], in speaking of churches and the clergy, and therefore need not here repeat them; but only mention a law of Honorius[80], which expressly charges the crime of sacrilege upon all such as offered any injury or affront to ministers officiating in the church, or to the service itself, or to the place: ordering all

[77] Cod. Theod. l. 16. tit. 2. de Episc. et Cler. leg. 2. (t. 6. p. 22.) Qui divino cultui ministeria religionis impendunt, id est, hi qui clerici appellantur, ab omnibus omnino muneribus excusentur: ne sacrilego livore quorundam a divinis obsequiis avocentur.—Vid. leg. 7. ibid. (p. 31.) Lectores divinorum apicum, et hypodiaconi, cæterique clerici, qui per injuriam hæreticorum ad curiam devocati sunt, absolvantur: et de cætero ad similitudinem Orientis minime ad curias devocentur, sed immunitate plenissima potiantur.

[78] Ep. 66. [al. 1. ad Cler. Furnitan. p. 3. (p. 169.) . . . Cum jam pridem in concilio episcoporum statutum sit, ne quis de clericis et Dei ministris tutorem vel curatorem testamento suo constituat, &c.

[79] B. 5. ch. 3. v. 2. p. 129.—B. 8. ch. 11. v. 3. p. 202.

[80] Cod. Theod. l. 16. tit. 2. de Episc. leg. 31. (t. 1. p. 66.) Si quis in hoc genus sacrilegii proruperit, in ecclesias Catholicas irruens, sacerdotibus et ministris, vel ipsi cultui, locoque aliquid importet injuriæ, ... provinciæ moderator sacerdotum et Catholicæ ecclesiæ ministrorum, loci quoque ipsius, et divini cultus injuriam capitali in convictos sive confessos reos sententia noverit vindicandum. Nec expectet ut episcopus injuriæ propriæ ultionem deposcat, cui sanctitas ignoscendi solum gloriam dereliquit, &c.

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such criminals to be notified by public officers, not waiting for the bishop's accusation of them to the governor of the province, who was to proceed against them and condemn them with the punishment of capital offenders.

The sacrilege of depriving men of the use of the Scripture, and the Word of God, and the sacraments, particularly of the cup in the Lord's Supper.

27. There is one species of sacrilege more which the casuists of the Romish Church for a good reason never mention: that is, the grand sacrilege of their own Church in depriving men of the use of the Holy Scriptures and the cup in the Lord's Supper, both which, with unparalleled magisterial authority, are sacrilegiously and injuriously taken from them.

That the Ancients reckoned it the sin of sacrilege to divide the communion without reason, and deny men the use of the cup, needs no other proof at present but the testimony of Gelasius, one of their own Popes, which is still exstant in their Canon Law[81], in the words of the following decree: 'We understand there are some who receive only a portion of the holy body, and abstain from the cup of the holy blood. Who doubtless, being bound by some vain superstition, ought either to receive the whole sacrament or to be excluded from the whole: because one and the same mystery cannot without grand sacrilege be divided.' Such sacrilegious dividers of the communion are also condemned by Pope Leo[82], and ordered to be excommunicated. And they who take the eucharist and use it for any other end besides communicating are censured by the fourteenth canon of the first Council of Toledo, and the third canon of the Council of Cæsaraugusta, as sacrilegious also, deserving to be banished the Church with *anathema* or excommunication. But of these I have discoursed more at large in a former Book[83], while speaking against communicating in one kind.

There were many heretics in the ancient Church who were guilty of sacrilege in relation to the other sacrament of baptism. Some rejected it wholly, others corrupted it in the material

[81] Gelasius, ap. Gratian. de Consecrat. distinct. 2. c. 12. (t. 1. p. 1918. 23.) Comperimus autem quod quidam, sumpta tantummodo corporis sacri portione, a calice sacri cruoris abstineant. Qui procul dubio, quoniam nescio qua superstitione docentur obstringi, aut integra sacramenta percipiant, aut ab integris arceantur: quia divisio unius ejusdemque mysterii sine grandi sacrilegio non potest provenire.

[82] Serm. 4. [al. 42. c. 3.] de Quadragesima. See before, b. 15. ch. 5. s. 1. v. 5. p. 409. n. 51.

[83] B. 15. ch. 4. s. 13. and ch. 5. s. 1. v. 5. pp. 391 and 405.

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part, and others in the form of words necessary to the administration: of all which the reader may find a large account in a former Book[84], which particularly handles the subject of baptism. But there were none that ever presumed sacrilegiously to deny Christians their proper birthright, which is to read the Scriptures. Some heretics corrupted them; and others rejected such parcels of them as they thought most opposite to their peculiar notions: but none who allowed them to be the inspired writings and oracles of the Holy Ghost ever denied the people liberty to search and examine them for their own instruction. This is a piece of sacrilege peculiar to these later ages, which the Ancients knew nothing of, and therefore had no occasion to make canons or rules of discipline to correct it. There are many exhortations to read the Scriptures; but no orders to keep them locked up in an unknown tongue, or to forbid the people to use them upon any occasion. And the only reason why there are no censures anciently to be found against this sort of sacrilege is because the sin itself was utterly unknown to the primitive ages.

There was indeed sometimes a neglect in ignorant or careless teachers in preaching the word of God to the people: and this is censured by some laws even in the Civil Code[85], as a sacrilegious withdrawing from the people the necessary food of their souls. But of this I need say no more in this place, having fully represented the laws obliging bishops and presbyters to be faithful and diligent in discharging this part of their duty while we were discoursing of preaching[86] and the usages relating to it in the ancient Church.

There are some other things which sometimes bear the name of sacrilege; but because they more properly belong to other species of sin, as breach of vows to perjury, and defilement of consecrated virgins to fornication, we will consider the discipline and treatment of these and the like offences under their proper heads, and proceed to the last sort of sin, which shows irreverence to God in the use of sacred things, commonly called *simony*, which is also a sort of sacrilege, because it sets

[84] B. 11. chh. 2 and 3. v. 4. pp. 15–44.

[85] Cod. Theod. l. 16. tit. 2. de Episc. leg. 25, Theodos. M. (t. 6. p. 57.) Qui divinæ legis sanctitatem aut nesciendo confundunt, aut negligendo violant et offendunt, sacrilegium committunt.

[86] B. 14. ch. 4. s. 2. v. 5. p. 92.

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spiritual and sacred things to sale, which are not the subject of a secular contract.

28. This is commonly distinguished by the Ancients into three sorts. 1. Buying and selling of spiritual gifts. 2. Buying and selling of spiritual preferments. 3. Ambitious usurpation and sacrilegious intrusion into ecclesiastical functions without any legal election or ordination.

Of simony in buying and selling spiritual gifts.

The first sort was that which most properly had the name of *simony* from Simon Magus, who pretended with money to purchase the gift of the Holy Ghost, [Acts 8, 18 and 19.] And this was always thought to be committed when men either offered or received money for ordinations. Which was a crime of a very high nature, and always punished with the severest censures of the Church. The Apostolical Canons[87] seem to lay a double punishment, both deposition and excommunication, upon such of the clergy as were found guilty of this crime: 'If any bishop, presbyter, or deacon obtain this dignity for money, both he that is ordained and the ordainer shall be deposed, and also cut off from all communion, as Simon Magus was by Peter.' The general Council of Chalcedon has a canon[88] to the same purpose: 'If any bishop gave an ordination or any ecclesiastical office or preferment of any kind for money, he himself shall lose his office, and the party so preferred be deposed.' The same punishment is appointed in the second Council of Orleans[89], the second of Braga[90], the fourth

[87] C. 29. [al. 30. s. 28.] (Cotel. [c. 22.] v. 1. p. 441.) *Εἴ τις ἐπίσκοπος διὰ χρημάτων τῆς ἀξίας ταύτης ἐγκρατὴς γένηται, ἢ πρεσβύτερος, ἢ διάκονος, καθαιρείσθω καὶ αὐτὸς, καὶ ὁ χειροτονήσας, καὶ ἐκκοπτέσθω παντάπασι καὶ τῆς κοινωνίας, ὡς Σίμων ὁ Μάγος ὑπ' ἐμοῦ Πέτρου.*

[88] C. 2. (t. 4. p. 755 b.) *Εἴ τις ἐπίσκοπος ἐπὶ χρήμασι χειροτονίαν ποιήσαιτο, καὶ εἰς πράσιν καταγάγῃ τὴν ἄπρατον χάριν, καὶ χειροτονήσῃ ἐπὶ χρήμασιν ἐπίσκοπον, ἢ χωρεπίσκοπον, ἢ πρεσβύτερον, ἢ διάκονον, ἢ ἕτερόν τινα τῶν ἐν τῷ κλήρῳ καταριθμουμένων, ἢ προβάλλοιτο ἐπὶ χρήμασιν ἢ οἰκονόμον, ἢ ἔκδικον, ἢ προσμονάριον, ἢ ὅλως τινὰ τοῦ κανόνος, δι' αἰσχροκέρδειαν οἰκείαν· ὁ τοῦτο ἐπιχειρήσας, ἐλεγχθεὶς, περὶ τὸν οἰκεῖον κινδυνευέτω βαθμόν· καὶ ὁ χειροτονούμενος μηδὲν ἐκ τῆς κατ' ἐμπορίαν ὠφελείσθω χειροτονίας ἢ προβολῆς, ἀλλ' ἔστω ἀλλότριος τῆς ἀξίας, ἢ τοῦ φροντίσματος, οὗπερ ἐπὶ χρήμασιν ἔτυχεν.*

[89] C. 3. (ibid. p. 1780 d.) Ne quis episcopus de quibuslibet causis, vel episcoporum ordinationibus, cæterorumque clericorum, aliquid præsumat accipere: quia' sacerdotem nefas est cupiditatis venalitate corrumpi.—C. 4. (ibid. e.) Si quis sacerdotium per pecuniæ nundinum execrabili ambitione quæsierit, abjiciatur ut reprobus: quia apostolica sententia donum Dei esse præcipit, pecuniæ trutina minime comparandum.

[90] [Al. Bracar. 3.] c. 3. (t. 5. p. 897 b.) Placuit, ut de ordinationibus clericorum episcopi munera nulla

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of Toledo[91], the eleventh of Toledo[92], the Council of Constantinople under Gennadius[93], the Decrees of Gelasius[94], Symmachus[95], Hormisdas[96], and Gregory the Great[97], St. Basil[98], the second Council of Nice[99], and the Council of Trullo[1]. Particularly the eighth Council of Toledo[2] makes it both degradation and excommunication in every clerk so ordained. And also punishes the receivers of simoniacal gifts with equal

suscipiant, sed, sicut scriptum est, quod gratis donante Deo accipiunt, gratis dent. Et non aliquo pretio gratia Dei et impositio manuum venundetur: quia antiqua definitio Patrum ita de ecclesiasticis ordinationibus statuit, dicens, *Anathema sit danti et accipienti, &c.*

[91] C. 18. (ibid. p. 1711 c. et p. 1712 c.) Perniciosa consuetudo nequaquam est reticenda, quæ, majorum statuta præteriens, omnem ecclesiæ ordinem perturbavit; dum alii per ambitum sacerdotium appetunt, alii oblatis muneribus pontificatum assumunt.... Si quis deinceps contra prædicta vetita canonum ad gradum sacerdotii indignus aspirare contenderit, cum ordinatoribus suis adepti honoris periculo subjacebit.

[92] C. 8. See n. 5, following.

[93] Ep. Synod. (t. 4. p. 1026 e.) *Οὐαὶ τῷ ὄντι τοῖς κτήσασθαι τὴν τοῦ Θεοῦ δωρεὰν ἢ διδόναι ταύτην διὰ χρημάτων ὑπειληφόσιν· εἰς γὰρ χολὴν πικρίας καὶ σύνδεσμον ἀδικίας οἱ τοιοῦτοι, κατὰ τὴν ἀπόφασιν τοῦ ἁγίου Πέτρου, ὑπάρχουσι, συλληφθέντες ὑπὸ τῆς ἑαυτῶν φιλαργυρίας.*

[94] Decret. Ep. 1. ad Episc. Lucaniæ, c. 26. (ibid. p. 1194 b.)... Quos vero constiterit indignos meritis, sacram mercatos esse pretio dignitatem, convictos oportet arceri non sine periculo facinus tale perpetrantes: quia dantem pariter et accipientem damnatio Simonis, quam sacra lectio testatur, involvit.

[95] Decret. c. 2. (ibid. p. 1295 c.) Illud magnopere commonentes, ut hi, qui non Dei gratia, sed promissione rerum ecclesiasticarum præmiis ad sacerdotium conantur accedere, desideriorum talium priventur effectu. Qui autem ab hujusmodi se intentione cohibeant, aut vindictis canonum sciant se sine dubitatione subdendos.

[96] Ep. ad Episc. Hispan. c. 2. (ibid. p. 1467 d.) Hoc quoque ad præmissa adjungimus, ne benedictionem, quæ divina esse creditur, per impositionem manus, quis pretio comparet: quoniam ante oculos esse convenit, quod Simon Spiritum Sanctum volens redemptione mercari, Apostoli fuerit detestatione percussus.

[97] L. 7. Ep. 111. (CC. 5. p. 1371 d.) Et vehementi tædio mœroris afficimur, si in ecclesiasticis officiis quemquam habeat locum pecunia.

[98] Ep. 76. ad Episc. (CC. t. 2. p. 1771 b.) *Φασί τινες, τινὰς ὑμῶν παρὰ τῶν χειροτονουμένων λαμβάνειν χρήματα, κ. τ. λ.*

[99] C. 5. (t. 7. p. 906 e.) Si quis episcopis pecuniis ordinationem fecerit, ... proprii gradus id faciat periculo.

[1] C. 22. (t. 6. p. 1154 a.) *Τοὺς ἐπὶ χρήμασι χειροτονουμένους, εἴτε ἐπισκόπους, εἴτε οἱουσδήποτε κληρικοὺς, καὶ οὐ κατὰ δοκιμασίαν καὶ τοῦ βίου αἵρεσιν, καθαιρεῖσθαι προστάσσομεν, ἀλλὰ καὶ τοὺς χειροτονήσαντας.*

[2] C. 3. (Ed. Crabb. t. 2. p. 243. ad calc. col. sinistr.) Quicunque propter accipiendam sacerdotii dignitatem quodlibet præmium fuerit detectus obtulisse, ex eodem tempore se noverit anathematis opprobrio condemnatum, atque a participatione Christi corporis et sanguinis alienum ... Illi vero, qui hac causa munerum acceptores exstiterint; si clerici fuerint, honoris amissione mulctentur; si laici, anathemate perpetuo condemnentur. [This canon is somewhat differently worded in Labbe and Cossart. See CC. t. 6. p. 404 d. Ed.]

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severity; if clergymen, with the loss of their honour; if laymen, with perpetual excommunication to the hour of death. And the Civil Law[3] also provided in this case, to prevent simoniacal ordinations, that both persons ordained and also their electors and ordainers should all take an oath that there was nothing given or received, or so much as contracted or promised, for any such election or ordination. And[4] for any bishop to ordain another without observing this rule is deposition by the same law, both for himself and him that is so ordained by him.

The Ancients also reduce to this sort of simony the exacting of any reward for administering baptism, or the eucharist, or confirmation, or burying, or consecration of churches, or any the like spiritual offices, which were to be administered freely without demanding any reward. The Council of Trullo[5] particularly forbids any clergyman to require any thing for administering the eucharist; 'For grace is not to be set to sale, neither do we impart the sanctification of the Spirit for money, but give it without craft to all that are worthy. And he that does otherwise shall be deposed as a follower of the wicked error of Simon Magus.' The eleventh Council of Toledo[6] for-

[3] Justin. Novel. 123. c. 1. See b. 4. ch. 2. s. 18. v. 2. p. 31. n. 4. —Novel. 137. c. 2. See ibid., the second part of n. 4.

[4] Ibid. c. 2. (t. 5. p. 540.) Si quis autem citra memoratam observationem episcopus ordinetur, jubemus hunc omnibus modis episcopatu depelli.

[5] C. 23. (t. 6. p. 1154 a.) *Περὶ τοῦ μηδένα, εἴτε ἐπίσκοπον, εἴτε πρεσβύτερον, ἢ διάκονον, τῆς ἀχράντου μεταδιδόντα κοινωνίας, παρὰ τοῦ μετέχοντος εἰσπράττειν, τῆς τοιαύτης μεταλήψεως χάριν, ὀβολοὺς ἢ εἶδος τὸ οἰονοῦν· οὐδὲ γὰρ πεπραμένη ἡ χάρις, οὐδὲ χρήμασι τὸν ἁγιασμὸν τοῦ Πνεύματος μεταδίδομεν· ἀλλὰ τοῖς ἀξίοις τοῦ δώρου ἀπανουργεύτως μεταδοτέον. Εἰ δὲ φανείη τις τῶν ἐν κλήρῳ καταλεγομένων ἀπαιτῶν, ᾧ μεταδίδωσι τῆς ἀχράντου κοινωνίας, τὸ οἰονοῦν εἶδος, καθαιρείσθω, ὡς τῆς Σίμωνος ζηλωτὴς πλάνης καὶ κακουργίας.*

[6] C. 8. (ibid. p. 550 c.) Quicquid invisibilis gratiæ collatione tribuitur, nummorum quæstu, vel quibuslibet præmiis venundari penitus non debet, dicente Domino, *Quod gratis accepistis, gratis date.* Et ideo quicunque deinceps in ecclesiastico ordine constitutus, aut pro baptizandis consignandisque fidelibus, aut pro collatione chrismatis, vel promotionibus graduum, pretia quælibet, vel præmia voluntarie oblata, pro hujusmodi ambitione susceperit; equidem, si sciente loci episcopo tale quidquam a subditis perpetratur, idem episcopus duobus mensibus excommunicationi subjaceat; pro eo, quia et sciens mala contexit, et correctionem necessariam non adhibuit. Sin autem suorum quispiam, eodem nesciente, quodcunque pro supra dictis capitulis accipiendum esse sibi crediderit; si presbyter est, trium mensium excommunicatione plectatur; si diaconus, quatuor; subdiaconus vero, vel clericus his cupiditatibus serviens, et competenti verbere et debita excommunicatione plectendus est.

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bids not only the taking of money for promotions to holy orders, but also for administering baptism, or confirmation, or chrism; and the bishop that connives at any of his clergy so doing, is ordered to be excommunicated for two months: and if a presbyter without his knowledge commits such offence, he is to be excommunicated four months: a deacon three months; and those of the inferior orders excommunicated at discretion. There are several other ancient canons to the same purpose in the Councils of Eliberis[7] and Braga[8], and the Decrees of Gelasius[9], which have been mentioned on another occasion[10], where we treated of the proper methods of raising funds and maintenance for the clergy, and need not here be repeated.

Of simony in purchasing ecclesiastical preferments.

29. But they did not only call that *simony* which consisted in trafficking for the gifts of the Holy Spirit, but also all purchases made of the spiritual preferments of the Church, and all promotions made without just merit, out of mere favour and affection. The Council of Chalcedon[11] not only threatens deposition to any bishop that sets grace to sale, and ordains a bishop, or *chorepiscopus*, or presbyter, or deacon, or any clerk for money; but also if he promotes an *œconomus* or *steward*, or an *ecdicus*, that is, an *advocate* or *defensor*, or a *paramonarius*, that is, a *bailiff* or *steward of the lands*, for his own filthy lucre. And both the clergy, so ordained, are to be degraded; and the officers, so promoted, to lose their places: and if any one be instrumental as a mediator in such dishonourable and unlawful traffic, if he be a clerk, he is to be degraded, if a layman or a monk, to be anathematized.

By the laws of Justinian[12], every elector was to depose upon oath, that he did not choose the party elected either for any gift, or promise, or friendship, or any other cause, but only because he knew him to be a man of the true Catholic faith, and unblameable life, and good learning. Gregory the Great[13]

[7] C. 48. [juxt. Ed. Crabb. t. 1. p. 284. juxt. Labb. et Cossart. c. 38. (t. 1. p. 975 e.) See before, b. 5. ch. 4. s. 14. v. 2. p. 172. n. 47. Ed.]

[8] Bracar. 2. [al. 3.] c. 7. See before, ibid. p. 173. n. 54.

[9] Ep. 1. [al. 9.] ad Episc. Lucan. c. 7. See before, ibid. p. 173. n. 56.

[10] B. 5. ch. 4. s. 14. v. 2. pp. 171—174.

[11] C. 2. (t. 4. p. 755 c.) *Εἰ δέ τις καὶ μεσιτεύων φανείη τοῖς οὕτως αἰσχροῖς καὶ ἀθεμίτοις λήμμασιν, καὶ οὗτος, εἰ μὲν κληρικὸς εἴη, τοῦ οἰκείου ἐκπιπτέτω βαθμοῦ· εἰ δὲ λαϊκὸς, ἢ μονάζων, ἀναθεματιζέσθω.*

[12] Novel. 123. c. 1. See before, b. 4. ch. 2. s. 18. v. 2. p. 31. n. 4.

[13] Hom. 2. in Evangel. [Ed. Bened. l. 1. in Evangel. Hom. 4. n. 4.]

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says, 'There were some who took no reward of money for ordination, and yet were in some measure guilty of simony, because they gave holy orders for human favour, and thence sought the reward of praise and favour among men. They did not give freely what they had freely received, because for giving an holy office they required the gift of favour. For there were three sorts of bribes, one from obsequiousness, another from the hand, and another from the tongue. That from obsequiousness was a servile subjection unduly paid; that from the hand was money; that from the tongue was favour.' But whether this sort of simony made men liable to ecclesiastical censure he does not say, but only speaks against it as a great corruption, from which they who give holy orders ought to keep themselves free, according to that of the Prophet, (Isa. 33, 15.) "He that shaketh his hands from holding of bribes."

Of simony in ambitious usurpation of holy offices and intrusion into other men's places and preferments.

30. The last sort of simony was when men by ambitious arts and undue practices, by the favour and power of some great or wealthy person, got themselves invested in any office or preferment to which they had no regular call or legal title, or when they intruded themselves into other men's places, which were legally filled before. This was the common practice of schismatical and other ambitious spirits, who would either thrust themselves irregularly into a vacant see, or usurp upon one that was already lawfully possessed and held by another. Thus Novatian got himself clancularly and simoniacally ordained to the bishopric of Rome, to which Cornelius had been legally ordained before him, as Cyprian[14] and others often complain. And so Majorinus was ordained anti-bishop of Carthage, in opposition to Cæcilian, the legal bishop, by the

(t. 1. p. 1449 c. 5.) Sunt nonnulli, qui quidem nummorum præmia ex ordinatione non accipiunt, et tamen sacros ordines pro humana gratia largiuntur, atque de largitate eadem laudis solummodo retributionem quærunt. Hi nimirum, quod gratis acceptum est, gratis non tribuunt, quia de impenso officio sanctitatis nummum expetunt favoris... Aliud est munus ab obsequio, aliud munus a manu, aliud munus a lingua. Munus quippe ab obsequio est subjectio indebite impensa, munus a manu pecunia est, munus a lingua favor.

[14] Ep. 52. [al. 55.] ad Antonian. p. 104. (p. 243.) Venio jam nunc, &c.—Ep. 41. [al. 44.] ad Cornel. (p. 230.).... Cum ... Novatianum episcopum factum comperissimus, illicitæ et contra ecclesiam Catholicam factæ ordinationis pravitate commoti, &c.—Cornel. Ep. ad Fabium, ap. Euseb. l. 6. c. 43. See before, s. 26. p. 314. n. 73.

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help of Lucilla[15], a wealthy woman, who spirited the faction that was the first beginning of the schism of the Donatists, as Optatus[16] and St. Austin[17] at large inform us. Now all such ordinations, being founded on ambition and usurpation, and generally obtained either by force, or favour, or fraud, or bribery, were usually vacated and declared null, and both the ordained and their ordainers prosecuted as criminals by degradation and reduction to the state and communion of laymen: of which, because I have given a full account of it in a former Book[18], I will not stand to make any further proof in this place: but only note that it was equally a simoniacal crime for any bishop ambitiously to thrust himself irregularly into any vacant see, or remove himself by any sinister arts from a lesser see to a greater, in contempt and despite of the rules prescribed by the Church in that case to be observed.

For, as I have noted in speaking formerly[19] upon this subject, there were many severe laws made against bishops arbitrarily removing themselves from one see to another. Though the translation of bishops was not absolutely and universally forbidden, because the Church had sometimes occasion for this expedient: yet care was taken that ambitious spirits should not move themselves at pleasure, but all translations were regularly to be made only by the authority, consent, and approbation of a provincial council, and to do otherwise was esteemed a crime of simoniacal ambition of the highest nature, as proceeding from avarice or love of pre-eminence, and using irregular methods, bribery, favour, and faction, to compass an end against the laws of the Church. And therefore the ancient Canons of Nice[20], and Antioch[21], and those called Apostolical[22],

[15] [Vid. Augustin. cont. Ep. Parmenian. (t. 9. p. 14 b.) Pecuniosissima et factiosissima fœmina. Ed.]

[16] L. 1. pp. 41, 42. (pp. 19—22.) Tunc suffragio totius populi Cæcilianus eligitur .... Lucilla .... cum omnibus suis potens et factiosa fœmina communioni miscere noluit... Schisma igitur illo tempore confusæ mulieris iracundia peperit... Exitum est foras, et altare contra altare erectum est, et ordinatio illicite celebrata est: et Majorinus, qui lector in diaconio Cæciliani fuerat, domesticus Lucillæ, ipsa suffragante, episcopus ordinatus est.

[17] Cont. Ep. Parmenian. l. 1. c. 3. (t. 9. p. 14 c.).... Quos ista factio [scil. Lucillæ] convocaverat ad perniciem Cæciliani, ut illo deposito alter eis ordinaretur?

[18] Scholastical History of Lay-Bap-tism, part 2. ch. 2 and 4.

[19] B. 6. ch. 4. s 6. v. 2. p. 271.

[20] C. 15. (t. 2. p. 36 d.) Διὰ τὸν πολὺν τάραχον καὶ τὰς στάσεις τὰς

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not only barely forbid and disallow this practice: but the Council of Sardica, finding by experience that simple prohibitions were not sufficient to repress it, and restrain aspiring men from it, backed her injunctions with the highest censures, making two very remarkable canons[23], which run in these words: 'That evil custom and pernicious corruption is by all means to be rooted out, that no bishop have liberty to remove himself from a lesser city to another. For the reason why he does this is plain; seeing we never find a bishop labouring to remove himself from a greater city to a less. Whence it is manifest that all such are inflamed with ardour of covetousness, and rather serve their ambition and vain glory, that they may seem to be invested with greater authority and power. Wherefore this sinister practice ought to be punished more severely.'

γινομένας ἔδοξε παντάπασι περιαιρεθῆναι τὴν συνήθειαν τὴν παρὰ τὸν κανόνα εὑρεθεῖσαν ἔν τισι μέρεσιν· ὥστε ἀπὸ πόλεως εἰς πόλιν μὴ μεταβαίνειν, μήτε ἐπίσκοπον, μήτε πρεσβύτερον, μήτε διάκονον. Εἰ δέ τις, μετὰ τὸν τῆς ἁγίας καὶ μεγάλης συνόδου ὅρον, τοιούτῳ τινὶ ἐπιχειρήσειεν, ἢ ἐπιδοίη ἑαυτὸν πράγματι τοιούτῳ· ἀκυρωθήσεται ἐξ ἅπαντος τὸ κατασκεύασμα, καὶ ἀποκατασταθήσεται τῇ ἐκκλησίᾳ, ᾗ ὁ ἐπίσκοπος ἢ ὁ πρεσβύτερος ἐχειροτονήθη.

[21] C. 21. (ibid. p. 572 a.) *Ἐπίσκοπον ἀπὸ παροικίας ἑτέρας εἰς ἑτέραν μὴ μεθίστασθαι, μήτε αὐθαιρέτως ἐπιρρίπτοντα ἑαυτόν, μήτε ἀπὸ λαῶν ἐκβιαζόμενον, μήτε ὑπὸ ἐπισκόπων ἀναγκαζόμενον· μένειν δὲ εἰς ἣν ἐκληρώθη ὑπὸ τοῦ Θεοῦ ἐξαρχῆς ἐκκλησίαν, καὶ μὴ μεθίστασθαι αὐτῆς, κατὰ τὸν ἤδη πρότερον ἐξενεχθέντα ὅρον.*

[22] C. 14. [al. 13.] Cotel. [c. 11.] (v. 1. p. 438.) *Ἐπίσκοπον μὴ ἐξεῖναι καταλείψαντα τὴν ἑαυτοῦ παροικίαν ἑτέρᾳ ἐπιπηδᾶν, κἂν ὑπὸ πλειόνων ἀναγκάζηται· εἰ μή τις εὔλογος αἰτία ᾖ, ἡ τοῦτο βιαζομένη αὐτὸν ποιεῖν, ὡς πλεῖόν τι κέρδος δυναμένου αὐτοῦ τοῖς ἐκεῖσε λόγῳ εὐσεβείας συμβάλλεσθαι· καὶ τοῦτο δὲ, οὐκ ἀφ' ἑαυτοῦ, ἀλλὰ κρίσει πολλῶν ἐπισκόπων, καὶ παρακλήσει μεγίστῃ.*

[23] C. 1. (t. 2. p. 628 b.) *Οὐ τοσοῦτον ἡ φαύλη συνήθεια, ὅσον ἡ βλαβερωτάτη τῶν πραγμάτων διαφθορὰ ἐξ αὐτῶν τῶν θεμελίων ἐστὶν ἐκριζωτέα· ἵνα μηδενὶ τῶν ἐπισκόπων ἐξῇ ἀπὸ πόλεως μικρᾶς εἰς ἑτέραν πόλιν μεθίστασθαι· ἡ γὰρ τῆς αἰτίας ταύτης πρόφασις φανερά ἐστι, δι' ἣν τὰ τοιαῦτα ἐπιχειρεῖται. Οὐδεὶς γὰρ πώποτε εὑρεθῆναι ἐπισκόπων δεδύνηται, ὃς ἀπὸ μείζονος πόλεως εἰς ἐλαχιστοτέραν πόλιν ἐσπούδασε μεταστῆναι· ὅθεν συνέστηκε, διαπύρῳ πλεονεξίας τρόπῳ ὑπεκκαίεσθαι τοὺς τοιούτους, καὶ μᾶλλον τῇ ἀλαζονείᾳ δουλεύειν, ὅπως ἐξουσίαν δοκοῦεν μείζονα κεκτῆσθαι. Εἰ πᾶσι τοίνυν τοῦτο ἀρέσκει, ὥστε τὴν τοιαύτην σκαιότητα αὐστηρότερον ἐκδικηθῆναι; ἡγοῦμαι γὰρ μηδὲ λαϊκῶν ἔχειν τοὺς τοιούτους χρῆναι κοινωνίαν. Πάντες οἱ ἐπίσκοποι εἶπον· Ἀρέσκει πᾶσιν.*—C. 2. (ibid. p. 628 e.) *Εἰ δέ τις τοιοῦτος εὑρίσκοιτο μανιώδης ἢ τολμηρὸς, ὡς περὶ τῶν τοιούτων δόξαι τινὰ φέρειν παραίτησιν, διαβεβαιούμενον ἀπὸ τοῦ πλήθους ἑαυτὸν κεκομίσθαι γράμματα· δῆλόν ἐστιν, ὀλίγους τινὰς δεδυνῆσθαι μισθῷ καὶ τιμήματι διαφθαρέντας ἐν τῇ ἐκκλησίᾳ στασιάζειν, ὡς δῆθεν ἀξιοῦντας τὸν αὐτὸν ἔχειν ἐπίσκοπον· καθάπαξ οὖν τὰς ῥᾳδιουργίας τὰς τοιαύτας καὶ τέχνας κολαστέας εἶναι νομίζω, ὥστε μηδένα τοιοῦτον μηδὲ ἐν τῷ τέλει λαϊκῆς γοῦν ἀξιοῦσθαι κοινωνίας· εἰ τοίνυν ἀρέσκει ἡ γνώμη αὕτη, ἀποκρίνασθε. Ἀπεκρίναντο, Τὰ λεχθέντα ἤρεσεν.*

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'And in my opinion,' says Hosius, the president of the Council, 'such ought not to be allowed so much as lay-communion.' The next canon adds, 'That if any one be so vain or presumptuous as to think to excuse himself in this matter, by saying that he received letters of invitation from the people, seeing it is possible some might be corrupted by bribes and rewards to raise a faction in the Church, and desire to have him for their bishop; — I think,' says Hosius again, 'these fraudulent arts and underhand practices ought to be undoubtedly punished, so as that such an one should not be allowed even lay-communion at his last hour.' And to this the Council readily agreed: which shows what apprehensions they had of this sort of simony, as most dangerous and pernicious to the Church. And it is worth remarking further, that whereas it might happen that such an ambitious bishop might, by the power of a faction, be able to maintain himself in his usurpation, in spite of all ecclesiastical censures: therefore in this case the third Council of Carthage[24] gave orders, 'that recourse should be had to the secular magistrate against such a refractory and contumacious bishop, who would not submit to the milder sentence of an admonition; and that in such an exigence of absolute necessity the ruler of the province should be entreated, according to the directions of the imperial laws, to use his judicial authority to expel him out of the church, which he kept possession of by force, without giving any signs of acquiescing or amendment.'

Whether there were any imperial laws made with a direct view to this particular case, I cannot say: but it is certain there were general laws made by Gratian and Honorius[25], obliging all bishops, who were censured and deposed by any synod, to submit to the sentence of the synod, and not to make

[24] C. 38. (ibid. p. 1172 d.) Necessitate ipsa cogente liberum sit nobis, rectorem provinciæ, secundum statuta gloriosissimorum principum adversus illum adire, ut qui miti admonitioni acquiescere noluit, et emendare illicitum, auctoritate judiciaria protinus excludatur.—Vid. c. 43. (ibid. p. 1174 c.) Sunt enim plerique conspirantes, &c.—Vid. etiam Cod. Afric. cc. 48 et 53. (ibid. p. 1071 d. et p. 1075 c.)

[25] Cod. Theod. l. 16. tit. 2. de Episc. leg. 35, Honorii (t. 6. p. 72.) Quicunque residentibus sacerdotibus fuerit episcopali loco detrusus et nomine, si aliquid vel contra custodiam, vel contra quietem publicam moliri fuerit deprehensus, rursusque sacerdotium petere, a quo videtur expulsus, procul ab ea urbe quam infecit, secundum legem divæ memoriæ Gratiani, centum millibus vitam agat, &c.

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any disturbance by endeavouring to keep or regain the sees out of which they were synodically expelled, under the penalty of being banished an hundred miles from the city, where they pretended to raise any such disturbance. This was the law of Honorius, which refers to a former law made by Gratian upon the same subject, which is also mentioned by Sulpicius Severus in his History [26] as enacted against the Priscillianists, though it be not now exstant in the Theodosian Code. And to these laws the African fathers might refer, when they order [27] 'all such contumacious bishops to be expelled by the authority of the civil magistrate, according to the tenour of the imperial laws made in this behalf;' to which they refer also in other canons relating to the same purpose.

Thus much of the several greater crimes against the First and Second Commandments, which made men liable to the penitential discipline and censures of the Church.

CHAP. VII.

Of sins against the Third Commandment, blasphemy, profane swearing, perjury, and breach of vows.

The blasphemy of apostates.

1. The greater sins against the Third Commandment, which chiefly brought men under public ecclesiastical censure, were blasphemy, profane swearing, perjury, and breach of vows solemnly made to God. For all these reflected a particular dishonour upon his name. Blasphemy they distinguished into three sorts. First, the blasphemy of apostates and lapsers, whom the Heathen persecutors obliged not only to deny, but curse Christ. Secondly, the blasphemy of heretics and other profane Christians. Thirdly, the blasphemy against the Holy Ghost.

The first sort we find mentioned in Pliny [28], who, giving Trajan an account of some Christians who apostatized in the persecution in his time, tells him, 'they all worshipped his

[26] L. 2. p. 116. (p. 443.) Post multa et fœda, Idacio supplicante, dicitur a Gratiano tum imperatore rescriptum, quo universi hæretici excedere non ecclesiis tantum aut urbibus, sed extra omnes terras propelli, jubebantur.

[27] Cod. Afric. c. 93. al. 95. (t. 2. p. 1107 e.) Κομμονιτώριον τοῖς ἀδελφοῖς, κ. τ. λ.

[28] L. x. Ep. 97. (p. 278.) Omnes et imaginem tuam, deorumque simulacra venerati sunt, iique et Christo maledixerunt.

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image, and the images of the gods, and also cursed Christ.' And that this was the common way of renouncing their religion appears from the demand which the proconsul made to Polycarp[29], and Polycarp's answer to it. He bid him revile Christ: Λοιδόρησον τὸν Χριστόν: to whom Polycarp replied, 'These eighty-six years I have served him, and he never did me any harm: how then can I blaspheme my King and my Saviour?' In the Epistles of Dionysius[30], bishop of Alexandria, where he gives an account of the persecution that happened there, we find this was the usual way whereby the Heathen required the Christians to abjure their religion. They bid Metras, the martyr, say *the atheistical words*, which when he refused to do, they stoned him to death. So again they bid Apollonia[31] say *the impious words*, beating out her teeth, and threatening to burn her alive, if she refused to comply with them; and threatening all others with the same punishment, that would not say *the blasphemous words*. Now though Valesius thinks it difficult to tell what these impious, blasphemous, and atheistical words were, yet it seems plain enough they meant blaspheming Christ, which was the thing the Heathen insisted on, as their certain indication of Christians renouncing their religion. And so Justin Martyr[32] says, when Barchocab, the ringleader of the Jewish rebellion under Adrian, persecuted the Christians, he threatened to inflict terrible punishments upon all that would not deny Christ and blaspheme him. This then being only a more solemn way of renouncing religion, by adding blasphemy to apostasy, all lapsers of this kind were deservedly reckoned among apostates,

[29] Euseb. l. 4. c. 15. (v. 1. p. 167. 17.) Ἐγκειμένου δὲ τοῦ ἡγουμένου καὶ λέγοντες,.. Λοιδόρησον τὸν Χριστόν· ἔφη ὁ Πολύκαρπος, Ὀγδοήκοντα καὶ ἓξ ἔτη δουλεύω αὐτῷ, καὶ οὐδέν με ἠδίκησε· καὶ πῶς δύναμαι βλασφημῆσαι τὸν Βασιλέα μου, τὸν σώσαντά με;

[30] Euseb. l. 6. c. 41. (ibid. p. 304. 16.).... Πρεσβύτην Μητρᾶν ὀνόματι συναρπάσαντες, καὶ κελεύσαντες ἄθεα λέγειν ῥήματα· μὴ πειθόμενον, ξύλοις τε παίοντες τὸ σῶμα, καὶ καλάμοις ὀξέσι τὸ πρόσωπον καὶ τοὺς ὀφθαλμοὺς κεντοῦντες, ἀγαγόντες εἰς τὸ προάστειον, κατελιθοβόλησαν.

[31] Ibid. (p. 305. 1.) Ἀλλὰ καὶ τὴν θαυμασιωτάτην τότε παρθένον πρεσβύτιν Ἀπολλωνίαν διαλαβόντες, τοὺς μὲν ὀδόντας ἅπαντας, κόπτοντες τὰς σιαγόνας, ἐξήλασαν· πυρὰν δὲ νήσαντες πρὸ τῆς πόλεως ζῶσαν ἠπείλουν κατακαῦσαι, εἰ μὴ συνεκφωνήσειεν αὐτοῖς τὰ τῆς ἀσεβείας κηρύγματα· ... ἀεὶ καὶ πανταχοῦ πάντων κεκραγότων, εἰ μὴ τὰ δύσφημα τίς ἀνυμνοίη ῥήματα, τοῦτον εὐθέως δεῖν σύρεσθαί τε καὶ πίμπρασθαι.

[32] Apol. 2. See before, ch. 6. s. 1. (p. 271. n. 24.)

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and accordingly punished with their punishment, to the highest degree of ecclesiastical censure.

The blasphemy of heretics and profane Christians.

2. Another sort of blasphemers were such as made profession of the Christian religion, but yet either by impious doctrines or profane discourses uttered blasphemous words against God, derogatory to his majesty and honour. In this sense heretics are commonly charged with blasphemy, and more especially those whose doctrines more immediately detracted from the excellences, properties, and actions of the Divine Nature. Thus Chrysostom[33] terms those *blasphemers* who introduced fate in derogation to the providence of God: and Irenæus[34], those likewise who denied God to be the Creator of the world. And the Arians and Nestorians are generally charged with blasphemy, impiety, and sacrilege[35], for denying the divinity of our Saviour and the incarnation of the Divine Nature. So that the same punishment as was inflicted upon heretics and sacrilegious persons was consequently the lot of this sort of blasphemers. St. Chrysostom[36] joins blasphemers and fornicators together, as persons that were to be expelled from the Lord's table. He says further[37], 'Under the Mosaical economy the

[33] Hom. 2. de Fato et Provid. t. 1. p. 118. (inter Spuria, t. 2. p. 756 c.) *Τίνες εἰσὶν, οἱ τὸν Θεὸν κακῶς λέγοντες; οἱ τῇ σοφίᾳ τῆς προνοίας αὐτοῦ τὴν ἐκ τῆς εἱμαρμένης ἀταξίαν καὶ ἀνάγκην ἐπιτειχίζοντες.*

[34] Præf. in l. 4. (p. 275. 20.) Nunc autem, quoniam novissima sunt tempora, extenditur malum in homines, non solum apostatas eos faciens, sed et blasphemos in plasmatorem instituit.

[35] Cod. Theod. l. 16. tit. 5. de Hæreticis, leg. 6., Theodosii. (t. 6. p. 118. ad summ.) Ariani sacrilegii venenum, &c.—Leg. 8. (ibid. p. 123.) Arianorum . . . sacrilegi hujus dogmatis.—Hilarii Fragment. p. 144. [Ed. Veron. 1730. (p. 686.) Fragm. 7.] Blasphemiæ Arii, &c.—Hilar. de Synodis. p. 104. (p. 464 c. 9.) Exemplum blasphemiæ, &c. [Similar terms (ibid. passim) such as *Ariani furores, Arii perfidia, adulterina doctrina, profanissima fides, blasphemi in Christi, &c.* Ed.]—Evagr. l. 1. c. 2. (v. 3. p. 252. 12.) *Νεστόριος ὁ τῆς βλασφημίας καθηγητὴς, κ. τ. λ.*

[36] Hom. 22. de Ira. t. 1. p. 277. [juxt. Ed. Bened. ad Pop. Antioch. Hom. 20.] (t. 2. p. 203 a.) *Ὡς [ὥσπερ, Savil.] γὰρ τὸν πορνεύοντα καὶ τὸν βλασφημοῦντα ἀμήχανον μετασχεῖν τῆς ἱερᾶς τραπέζης, κ. τ. λ.*

[37] Hom. 2. de Fato. t. 1. p. 811. (ibid. p. 756 a.) *Ὁ κακολογῶν πατέρα ἢ μητέρα, θανάτῳ τελευτάτω, φησὶν, ἐπὶ τῆς Παλαιᾶς ὁ νόμος ἔκειτο. . . . Τί οὖν ἂν εἴποιμεν περὶ τῶν νῦν ἐν τῇ χάριτι, καὶ τῇ τῶν πραγμάτων ἀληθείᾳ, καὶ τῇ τοσαύτῃ γνώσει, οὐχὶ πατέρα καὶ μητέρα κακολογούντων, ἀλλ' αὐτὸν τὸν τῶν ὅλων Θεόν; τίς τοὺς τοιούτους δέξεται τιμωρία; ποία τῷ μέτρῳ τῆς κακίας διαρκέσει κόλασις; ποῖος δὲ πυρὸς ποταμὸς, ποῖος σκώληξ ἀτελεύτητος, ποῖον σκότος ἐξώτερον, ποῖα δεσμὰ, ποῖος βρυγμὸς, ποῖος κλαυθμός; πάντα ἐλάττω τὰ βασανιστήρια, καὶ τὰ ὄντα καὶ τὰ μέλλοντα, τῆς οὕτω διακειμένης ψυχῆς, τῆς πρὸς τοσοῦτον κακίας κατενεχθείσης. . . . . Οὐ γάρ ἐστιν, οὐκ ἔστιν ταύτης ἁμαρ-*

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law was, Let him that curseth father or mother die the death. What shall we then say of those who in the time of grace and truth and such extraordinary knowledge not only curse father and mother, but blaspheme the God of the universe? All the punishments of this world and the next are not sufficient to chastise a soul that is arrived to this prodigious height of wickedness. For there is no sin greater than this, none equal to it. It is an addition to all other crimes, confounding all religion, and drawing inexpiable punishment after it.'

Neither was it only this doctrinal blasphemy of heretics, proceeding from corrupt and vicious principles, that they thus treated both with their censures and invectives; but also all other blasphemies of profane Christians, whether occasioned by ill opinions fixed in the mind or other sudden emotions of a vicious temper. This we learn from Synesius's way of proceeding against Andronicus the oppressing governor of Ptolemais. He admonished him for his other crimes while there was any hopes of making a just impression on him: but when he added blasphemy to all the rest, presuming to say 'no man should escape his hands though he laid hold of the very foot of Christ,' Synesius[39] thought he was no longer to be admonished, but to be cut off as a putrified member, and accordingly he proceeded to pronounce against him that famous excommunication, which we have had so often occasion to mention[40] as the most formal sentence that occurs in ancient story.

I only add that the civil laws set a particular mark upon this crime. For by the laws of Justinian[41] blasphemy is reckoned a capital offence, to be punished with death. And by the former laws, since heresy was reputed blasphemy against God, all the penalties inflicted on heretics, one of which was in

τία χείρων, ἀλλ' οὐδὲ ἴση, ἀλλὰ καὶ προσθήκη κακῶν τοῦτό ἐστιν, καὶ ὃ ἅπαντα συγχεῖ, καὶ ἀσύγνωστον ἔχει κόλασιν καὶ ἀφόρητον τιμωρίαν.

[39] Ep. 58. p. 199. See before, ch. 2. s. 8. p. 87. n. 72.—Conf. C. Constantinop. sub Menna, Act. 1. al. 5. (t. 5. pp. 100, seqq.) [For numerous examples; and especially the latter part of the sentence of Mennas, the Patriarch, against Severus, Petrus, and Zonaras. (ibid. p. 255 c.) *Διὰ ταῦτα τοιγαροῦν, κ. τ. λ.* Ed.]

[40] See it at length, ch. 2. s. 8. p. 87. n. 72.

[41] Novel. 77. (t. 5. p. 361.) ... Si enim contra homines factæ blasphemiæ impunitæ non relinquentur: multo magis qui ipsum Deum blasphemant digni sunt supplicia sustinere.... Præcipimus enim .... permanentes in prædictis illicitis et impiis actibus .... comprehendere et ultimis subdere suppliciis.

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some cases death also, must be supposed to be punishments awarded by law to this sort of blasphemers.

The blasphemy against the Holy Ghost. What notion the Ancients had of it, and what censures they inflicted on it.

3. Another sort of blasphemy was the blasphemy against the Holy Ghost, of which I must be a little more particular, because the sense of the Ancients concerning it is not very commonly understood.

Some apply it to the great sin of lapsing into idolatry, and apostasy, and denying Christ in time of persecution. Thus Cyprian understands it when[42] he says, 'They who commit idolatry by the violence of persecution know their offence to be a very great crime, seeing our Lord and Judge has said, "Whosoever shall confess me before men, him will I confess before my Father which is in heaven. But he that denieth me, him will I also deny." [Matth. 10, 32.] And again, "All sins and blasphemies shall be forgiven to the sons of men: but he that blasphemeth against the Holy Ghost shall not have forgiveness; but is guilty of eternal sin."' [Mark 3, 28, 29.] St. Hilary[43] gives the same account of this blasphemy, making it to consist in denying Christ to be God. And therefore he also charges[44] the Arians and all other such heretics with this blasphemy, 'because their doctrine robbed Christ of his divinity, and denied him to be of the same substance with the Father, however they venerated him as God, and ascribed the name of God to him upon the account of his admirable works and glorious operations.' Athanasius, and the author of the Questions to Antiochus under his name, are of the same opinion. Athanasius has a particular discourse upon this subject[45],

[42] Ep. 10. [al. 16.] p. 36. (p. 195.) Summum enim delictum esse quod persecutio committi coegit; cum dixerit Dominus et Judex noster, *Qui me confessus fuerit coram hominibus, et illum confitebor coram Patre meo qui in cœlis. Qui autem me negaverit, et ego illum negabo.* Et iterum dixerit, *Omnia peccata remittentur filiis hominum et blasphemiæ: qui autem blasphemaverit Spiritum Sanctum, non habebit remissam, sed reus est æterni peccati.*

[43] In Matth. c. 31. p. 184. (t. 1. p. 802 b. n. 5.) Sciebat exterrendos, fugandos, negaturos: sed quia Spiritus blasphemia nec hic nec in æternum remittitur, metuebat ne se Deum abnegarent, quem cæsum et consputum et crucifixum essent contemplaturi. Quæ ratio servata in Petro est, qui cum negaturus esset, ita negavit, *Non novi hominem.*

[44] Ibid. c. 12. p. 164. (p. 731 d. n. 18.) .... Christo aliqua deferre, negare quæ maxima sunt: venerari tanquam Deum, Dei communione spoliare, hæc blasphemia Spiritus est: ut cum per admirationem operum tantorum Dei nomen detrahere non audeas, generositatem ejus, quam confiteri es coactus in nomine, abnegata paternæ substantiæ communione decerpas.

[45] In illud, Quicunque dixerit verbum, &c. t. 1. p. 971. [Ep. 4. ad

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where he notes the errors of Origen and Theognostus upon it, and delivers his own opinion in opposition to them. They said, 'that all they who had received the gifts of the Holy Ghost in baptism, and afterward run into sin, committed the unpardonable sin against the Holy Ghost.' Which he refutes both from the practice of St. Paul, who received the incestuous Corinthian and other great sinners to pardon; and also from the practice of the Church in opposition to the Novatians. 'Why then,' says he[46], 'are we angry at Novatus for taking away repentance, and saying there is no pardon for those that sin after baptism?' His own opinion[47] he delivers after this manner: 'The Pharisees in our Saviour's time, and the Arians in our days, running into the same madness, denied the real Word to be incarnate, and ascribed the works of the Godhead to the Devil and his angels, and therefore justly undergo the punishment, which is due to this impiety, without remission. For they put the Devil in the place of God, and imagined the works of the living and true God to be nothing more than the works of the devils.' 'Which was the same thing[48] as if they had said that the world was made by Beelzebub, that the sun arose at his command, and the stars in heaven moved by his direction. For as the one were the works of God, so were the other: and if the one were done by Beelzebub, so were the other also. For this reason Christ declared[49] their sin unpardonable, and their punishment inevitable and eternal.' In another place[50] he says, 'They who spake against Christ, con-

Serapion. in Matth. 12, 24–31. nn. 8, 9, 10, 11, 12.] (t. 1. part. 2. pp. 560 e, seqq.) Περὶ δὲ οὗ γράφων ἐδήλωσας, κ. τ. λ.

[46] [Ibid. (p. 563 b.) Τί δὲ καὶ Νουάτῳ μεμφόμεθα ἀναιροῦντι [τὴν] μετάνοιαν, καὶ φάσκοντι μηδεμίαν συγγνώμην ἔχειν τοὺς μετὰ τὸ λουτρὸν ἁμαρτάνοντας; εἰ διὰ τοὺς μετὰ τὸ λουτρὸν ἁμαρτάνοντας εἴρηται τὸ ῥητόν; Grischov.]

[47] Ubi supr. t. 1. p. 975. (ibid. p. 564 e.) Ἐπειδὰν . . . . εἰς μανίαν τραπῶσι, καὶ αὐτὸν τὸν ἐν τῷ σώματι ὄντα Λόγον τέλεον ἀρνήσωνται, ἢ καὶ τὰ τῆς Θεότητος ἔργα τῷ Διαβόλῳ καὶ τοῖς τούτου δαίμοσιν ἀναφέρωσιν, εἰκότως ἀσύγγνωστον ἔχουσι τὴν ἐκ τῆς τοιαύτης ἀσεβείας ἐπιτιμίαν· τόν τε γὰρ Διάβολον εἰς Θεὸν ἐλογίσαντο, καὶ τὸν ἀληθινὸν καὶ ὄντως ὄντα Θεὸν, οὐδὲν πλέον ἐν τοῖς ἔργοις ἔχειν τῶν δαιμόνων ἡγήσαντο, κ. τ. λ.

[48] Ibid. (p. 565 b.) Ἴσον γὰρ ἦν αὐτοὺς τολμᾷν καὶ εἰπεῖν, ὁρῶντας τὴν τοῦ κόσμου τάξιν, καὶ τὴν εἰς αὐτὸν πρόνοιαν, ὅτι καὶ ἡ κτίσις ὑπὸ τοῦ Βεελζεβοὺλ γέγονε· καὶ ὁ ἥλιος ὑπακούων τῷ Διαβόλῳ ἀνατέλλει, καὶ δι' αὐτὸν περιπολεῖ τὰ ἄστρα ἐν τῷ οὐρανῷ· καὶ γὰρ ὥσπερ ταῦτα τοῦ Θεοῦ, οὕτω κἀκεῖνα τοῦ Πατρὸς ἦν ἔργα.

[49] Ibid. (p. 565 b.) Ὅθεν ἀκολούθως ὁ Σωτὴρ ἀσύγγνωστα καὶ ἄφυκτα βλασφημεῖν αὐτοὺς ἀπεφήνατο.

[50] De Communi Essentia Trium Personarum. t. 1. p. 237. (t. 2. p. 20 c, d.) Οἱ μὲν τῇ σαρκὶ αὐτοῦ, ἤγουν

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sidering him only as the Son of man, were pardonable, because in the beginning of the Gospel the world looked upon him only as a prophet, not as God, but as the son of man: but they who blasphemed his divinity after his works had demonstrated him to be God had no forgiveness, so long as they continued in this blasphemy: but if they repented they might obtain pardon: for there is no sin unpardonable with God to them who truly and worthily repent.' And the same is said by the author of the Questions to Antiochus[51] under his name. St. Ambrose[52] also defines this sin to be denying the divinity of Christ: 'Whoever does not confess God in Christ, and Christ to be of God and in God, deserves no pardon.'

Some again make it to consist in denying the divinity of the Holy Ghost. Thus Epiphanius[53] brings the charge against the *Pneumatomachi*, or Macedonian heretics, whose error consisted particularly in opposing the Godhead of the Holy Ghost, and making him a mere creature. He says, 'All heretics blaspheme and deny the truth, some more, some less: (as these *Pneumatomachi* did:) blaspheming the Lord and the Holy Spirit, and having pardon of sins neither in this world nor the

τῷ Υἱῷ τοῦ Ἀνθρώπου, προσκόπτοντες, προφήτην αὐτὸν ἀλλ' οὐ Θεόν εἶναι ἐνόμιζον· οἷς καὶ συγγνώμην ἔδωκεν... Διὸ καί φησιν ὁ Χριστός· Ὅτι ὃς ἐὰν εἴπῃ λόγον κατὰ τοῦ Υἱοῦ τοῦ Ἀνθρώπου, εἴτ' οὖν τοῦ σώματος αὐτοῦ, ἀφεθήσεται αὐτῷ.... Οἱ δὲ εἰς τὸ Πνεῦμα τὸ Ἅγιον, εἴτ' οὖν εἰς τὴν τοῦ Χριστοῦ θεότητα βλασφημήσαντες, καὶ λέγοντες, ὅτι, ἐν Βεελζεβοὺλ, τῷ ἄρχοντι τῶν δαιμονίων, ἐκβάλλει τὰ δαιμόνια· τούτοις, φησὶν, οὐκ ἀφεθήσεται, οὐδὲ ἐν τῷ νῦν αἰῶνι, οὐδὲ ἐν τῷ μέλλοντι. Καὶ πάλιν σημειώσασθαι χρὴ, ὅτι οὐκ εἶπεν ὁ Χριστὸς, Τῷ βλασφημήσαντι καὶ μετανοοῦντι οὐκ ἀφεθήσεται· ἀλλὰ, Τῷ βλασφημοῦντι, εἴτ' οὖν, τῷ ἐν τῇ βλασφημίᾳ ἐπιμένοντι· ἐπειδήπερ οὐκ ἔστιν ἁμαρτία ἀσυγχώρητος παρὰ τῷ Θεῷ ἐν τοῖς γνησίως καὶ κατ' ἀξίαν μετανοοῦσιν.

[51] Quæst. 71. [al. 69.] t. 2. p. 358. (t. 2. p. 231 b.).. Καὶ τοῖς μὲν ἁμαρτωλοῖς πολλάκις μακροχρονίαν χαρίζεται, ἀφορμὴν αὐτοῖς διδοὺς πρὸς μετάνοιαν.

[52] In Luc. l. 7. c. 12. [v. 9, 10.] (t. 5. p. 108. (t. 1. p. 1438 d. n. 120.) .... Quicunque spiritus non confitetur in Christo Deum, et ex Deo et in Deo Christum, veniam non meretur.

[53] Hær. 74. Pneumatom. n. 14. (t. 1. p. 903 c.) Ἀρκετῶς γὰρ ἐν πᾶσι αἱρέσεσι πολλὰ εἰπόντες τὰς πάσας ἐν Θεοῦ δυνάμει ἡμεῖς οἱ ἀσθενεῖς ἀνετρέψαμεν, καὶ ἀπεδείξαμεν ἀλλοτρίας οὔσας τῆς ἀληθείας, καὶ ἑκάστην αὐτῶν βλασφημοῦσαν, καὶ ἀρνουμένην τὴν ἀλήθειαν, κἄν τε ἐν βραχεῖ, κἄν τε ἐν πολλῷ· ὡς καὶ οὗτοι [Πνευματομάχοι] μάτην εἰς τὸν Κύριον βλασφημοῦντες, καὶ εἰς τὸ Ἅγιον Πνεῦμα, καὶ μὴ ἔχοντες μήτε ἐνταῦθα, μήτε ἐν τῷ μέλλοντι αἰῶνι, κατὰ τὰ ὑπὸ Κυρίου εἰρημένα, ἄφεσιν ἁμαρτιῶν, διὰ τὴν εἰς τὸ Ἅγιον Πνεῦμα βλασφημίαν, καταπατηθέντες ὑπ' αὐτῆς τῆς ἀληθείας δίκην κεράστου δεινοῦ μονοκέρωτος.—[Conf. Athanas. Ep. ad African. n. 11. (t. 1. part. 2. p. 718 e.) Αὕτη [ἐν Νικαίᾳ σύνοδος] καὶ τοὺς βλασφημοῦντας, κ. τ. λ. Ed.]

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world to come.' He shows also how they were not pardoned in this world, because their doctrine was condemned by the Church in the Council of Nice, and their persons anathematized or cast out of the communion of the Church. But then as they might be admitted to communion again upon their repentance, so we must suppose he means their sin was capable of pardon in the next world upon the same condition, and only unpardonable upon the supposition of obstinacy and continuance in it without repentance. St. Ambrose also in his Treatise of the Holy Ghost[54], writing against the same heretics, charges them as guilty of this blasphemy against the Holy Ghost for denying the divinity of his Person. And the same charge is brought against them by Philastrius[55], when he says, the Lord declared 'that all sins should be forgiven unto men beside the blasphemy against the heavenly essence of the Holy Spirit.' Philastrius[56] brings the charge in general against all heretics, as blasphemers of the Holy Ghost. And St. Ambrose[57] does the same, but then he does not assert the sin to be absolutely unpardonable, but exhorts them to return to the Church, with hopes of obtaining mercy and forgiveness.

Others place this sin in a perverse and malicious ascribing

[54] De Spirit. Sanct. l. 1. c. 3. (t. 2. p. 611 c. n. 54.) *Qui blasphemaverit in Filium Hominis, remittetur ei: qui autem blasphemaverit in Spiritum Sanctum, nec hic nec in futurum remittetur ei:* diligenter adverte. Numquid alia est offensa Filii, alia Spiritus Sancti? Sicut enim una dignitas, sic una injuria. Sed si quis, corporis specie deceptus humani, remissius aliquid sentit de Christi carne, quam dignum est (neque enim vilis nobis debet videri, quæ aula virtutis, fructus est Virginis) habet culpam; non est tamen exclusus a venia, quam fide possit adsciscere. Si quis vero Sancti Spiritus dignitatem, majestatem, et potestatem abneget sempiternam, et putet non in Spiritu Dei ejici dæmonia, sed in Beelzebub; non potest ibi exoratio esse veniæ, ubi sacrilegii plenitudo est; quia qui Spiritum negavit, et Deum Patrem negavit et Filium; quoniam idem est Spiritus Dei, qui Spiritus est Christi.

[55] De Hæres. c. 20. ap. Bibl. Patr. t. 4. p. 17. [al. 39. Semiariani.] (ap. Galland. t. 7. p. 491 a.)... Concedi omnia peccata hominibus præter blasphemiam de divini et adorandi Spiritus essentia.

[56] Hæres. Rhetorii. (ibid. p. 495 e.) Photinus ergo laudandus est hæreticus, qui Christum Dominum negat esse ante sæcula cum Patre; et omnis hæresis, quæ blasphemat aut in Patrem, aut in Filium, aut in Spiritum.

[57] De Pœnitent. l. 2. c. 4. (t. 2. p. 421 e. n. 24.) Eos quoque asserit diabolico uti spiritu, qui separarent ecclesiam Dei [al. Domini]: ut omnium temporum hæreticos et schismaticos comprehenderet, quibus indulgentiam negat.—Ibid. paul. post. (p. 422 b. n. 26).... Revertimini ad ecclesiam, si qui vos separastis impie; omnibus enim conversis pollicetur veniam, &c.

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the works of the Holy Spirit to the power of the Devil. And some of these suppose the malignity of it to consist in doing this against knowledge and manifest convictions of conscience, which renders them self-condemned, and their sin simply and absolutely unpardonable. The author of the Questions upon the Old and New Testament, under the name of St. Austin [58], who is supposed to be one Hilary, a Roman deacon, expressly delivers his opinion after this manner. 'The Jews,' says he, 'did not sin against the Holy Ghost out of ignorance, but maliciousness. For they knew the works which our Saviour did to be the true works of God: but to divert the people from believing on him, they pretended, against their own knowledge and conscience, to say, that they were the works of the prince of devils. Upon which account our Lord said to them, "Ye have the key of knowledge, and ye neither enter yourselves, nor suffer others to enter." That sentence then was pronounced against the malignant, for whom there is no remedy to be found to bring them to salvation. For this is the greatest of all sins, pretending that to be false which men know to be true, and denying the wonderful works of God against their own knowledge and conscience.'

But in two things this author is singular. First, in saying the Jews acted against knowledge and conscience: for St. Austin [59] expressly says, 'they did it in ignorance, by that blindness which happened to Israel in part, till the fulness of the Gentiles should come in.' And it seems evident from those words of St. Peter in his sermon to them, (Acts 3, 17.) "I wot,

[58] Quæst. in Vet. et Nov. Test. 102. t. 4. p. 452. (t. 3. append. p. 96 a.) Non enim errore peccaverunt in Spiritum Sanctum, sed malevolentia. Scientes enim prudentesque opera, quæ viderunt [al. videbant] in gestis Salvatoris Dei esse, ut populum a fide ejus averterent, hæc simulabant esse principis dæmoniorum.... Hæc ergo sententia contra malevolos prolata est, quibus remedium inveniri non potest ut salventur. Nihil enim hoc crimine gravius est; fingit enim falsum esse, quod scit esse verum.... Non ergo dignum est, istis peccatum hoc umquam debere remitti, qui, conscientia sua teste, Deo, cui se devotos dicebant, ausi sunt repugnare.

[59] Expos. in Rom. p. 365. t. 4. (t. 3. part. 2. p. 938 d.) Quo loco quæri potest, utrum scirent Judæi per Spiritum Sanctum operari Dominum, quando eum in principe dæmoniorum dæmonia excludere blasphemabant? Miror autem, quomodo possent in illo Spiritum Sanctum cognoscere, cum ipsum Dominum Filium Dei esse nescirent: in illa scilicet cæcitate, quæ ex parte in Israel facta est, donec plenitudo Gentium intraret.

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brethren, that in ignorance ye did it, as did also your rulers." Secondly, in that he makes their sin simply and absolutely unpardonable, which the Ancients generally do not, save only when it is accompanied with insuperable obstinacy and final impenitency, which in the nature of the thing can have no pardon. For all others among the Ancients suppose it possible for men to repent of this sin, and thereby make themselves capable of pardon, though with great difficulty, and that the unpardonableness of it arises from men's own obstinacy and impenitency only, which makes them liable to punishment both in this world and the world to come. Thus St. Chrysostom delivers his opinion in his Comment[60] upon the words of our Saviour: 'Is there no remission for those who repent of their blasphemy against the Spirit? How can this be said with reason? For we know it was forgiven to some that repented of it. Many of those Jews which blasphemed the Holy Ghost did afterwards believe, and all was forgiven them. What is therefore the meaning of it? That it is a sin less capable of pardon than all others. And unless they repented of it (so Anianus[61] translates it) they should be punished in both worlds,

[60] Hom. 42. [Bened. 41. al. 42.] in Matth. 12. p. 391. (t. 7. p. 448 e.) Ἡ δὲ τοῦ Πνεύματος βλασφημία οὐκ ἀφεθήσεται, [οὐδὲ] μετανοοῦσι; Καὶ πῶς ἂν ἔχοι τοῦτο λόγον; καὶ γὰρ καὶ αὐτὴ ἀφέθη μετανοήσασι· πολλοὶ γοῦν τῶν ταῦτα εἰρηκότων ἐπίστευσαν ὕστερον, καὶ πάντα αὐτοῖς ἀφέθη. Τί οὖν ἐστιν ὅ φησιν; ὅτι ὑπὲρ πάντα αὕτη ἡ ἁμαρτία ἀσύγγνωστος. Τί δήποτε; ὅτι αὐτὸν μὲν ἠγνόουν, ὅστίς ποτε ἦν· τοῦ δὲ Πνεύματος ἱκανὴν εἰλήφασι πεῖραν· καὶ γὰρ καὶ οἱ Προφῆται δι' αὐτοῦ ἐφθέγξαντο, ἅπερ ἐφθέγξαντο, καὶ πάντες δὲ οἱ ἐν τῇ παλαιᾷ μεγίστην περὶ αὐτοῦ εἶχεν ἔννοιαν. Ὁ τοίνυν λέγει, τοῦτό ἐστιν· Ἔστω, ἐμοὶ προσπταίετε διὰ τὴν σάρκα τὴν περικειμένην· μὴ καὶ περὶ τοῦ Πνεύματος ἔχετε εἰπεῖν, ὅτι ἀγνοοῦμεν αὐτό; διὰ δὴ τοῦτο ἀσύγγνωστος ὑμῖν ἔσται ἡ βλασφημία, καὶ ἐνταῦθα καὶ ἐκεῖ δώσετε δίκην.... Εἰ γὰρ καὶ ἐμὲ λέγετε ἀγνοεῖν· οὐ δήπου κἀκεῖνο ἀγνοεῖτε, καὶ ὅτι τὸ δαίμονας ἐκβάλλειν καὶ ἰάσεις ἐπιτελεῖν τοῦ Ἁγίου Πνεύματός ἐστιν ἔργον. οὐκ ἄρα ἐμὲ ὑβρίζετε μόνον, ἀλλὰ καὶ τὸ Πνεῦμα τὸ Ἅγιον· διὸ καὶ ἀπαραίτητος ὑμῖν ἡ δίκη καὶ ἐνταῦθα καὶ ἐκεῖ. Καὶ γὰρ τῶν ἀνθρώπων, οἱ μὲν καὶ ἐνταῦθα κολάζονται καὶ ἐκεῖ· οἱ δὲ ἐνταῦθα μόνον· [οἱ δὲ ἐκεῖ μόνον· Savil. et Bened.] οἱ δὲ οὐδὲ ἐνταῦθα, οὐδὲ ἐκεῖ· ἐνταῦθα μὲν καὶ ἐκεῖ, ὡς οὗτοι αὐτοί· καὶ γὰρ καὶ ἐνταῦθα ἔδοσαν δίκην, ἡνίκα ἔπαθον τὰ ἀνήκεστα ἐκεῖνα τῆς ὧδε πόλεως ἁλούσης· καὶ ἐκεῖ χαλεπωτάτην ὑπομενοῦσιν, ὡς οἱ Σοδόμων πολῖται, ὡς ἕτεροι πολλοί· ἐκεῖ δὲ μόνον, ὡς ὁ πλούσιος ὁ ἀποτηγανιζόμενος καὶ οὐδὲ σταγόνος κύριος ὤν· ἐνταῦθα δὲ, ὡς ὁ πεπορνευκὼς παρὰ Κορινθίοις· οὔτε δὲ ἐνταῦθα, οὔτε ἐκεῖ, ὡς οἱ Ἀπόστολοι, ὡς οἱ Προφῆται, ὡς ὁ μακάριος Ἰώβ· οὐ γὰρ δὴ κολάσεως ἦν, ἅπερ ἔπασχον, ἀλλ' ἀγώνων καὶ παλαισμάτων.

[61] [Vid. ap. Ed. Ducæan. Paris. 1617. (t. 7. p. 391 e. sub im. pag.) ..... Quapropter, nisi pœnitentiam agatis, nec in futura punitionem effugietis.—The Greek text says no-

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and have pardon in neither.' Which he observes to be the difference between this kind of sinners and many others. 'For some sinners are punished both in this world and the next; others only in this world; others only in the next; others neither in this world nor the next.' He gives examples of all these. 'Some are punished both here and hereafter, as these blaspheming Jews: for they suffered vengeance here in the great calamities which befel them in the destruction of Jerusalem: and hereafter they must undergo intolerable torments, as the men of Sodom and many others. Some suffer only in the next world, as the rich man who is tormented in flames, and not master of so much as a drop of water to cool his tongue. Some suffer only in this world, as he that committed fornication among the Corinthians: and others neither in this world, nor the next, as the Apostles, and Prophets, and holy Job, and such like. For their passions were not punishments for their sins, but only exercises and combats to crown them with victory.' Now he supposes that blasphemy against the Holy Ghost is a sin of the first kind; that is, one of those for which men, if they do not timely repent of it, shall suffer both here and hereafter, as the men of Sodom; in which respect it is said never to have forgiveness, neither in this world nor the next [61], because it is punished in both.

Victor of Antioch, who was contemporary with St. Chrysostom, gives the same account of the unpardonableness of this sin. He says [62], 'When our Saviour discourses of the sin of

thing of repentance: but does the translator consider it implied in the term *ἀπαραίτητος*, and is he unreasonable in doing so?—This set of Ducæus's edition is dated thus: the first five volumes, Paris, 1621; the sixth volume, Paris, 1624; the seventh, 1617: and vols. 8, 9, 10, Paris, 1603; in all ten tomes. I believe the explanation to be that Ducæus's edition was not carried beyond the sixth volume in the year 1624; sets of the entire work being made up by the addition of four volumes more of different dates, *e bibliopolio Commeliniano* between 1593—97, or from a reprint in 1603. See also what I have said before, b. 13. ch. 6. s. 1. v. 4. p. 440. n. 2. Comp. Walch, Biblioth. Patrist. ch. 2. s. 16. Jenæ, 1834. p. 135. Ed.]

[61] [See also Chrysostom's Third Homily on Lazarus, (t. 5. p. 69, of the Editio Ducæana,) where he uses the same distinction of sins punished only in this world, or only in the next, or else, as the sins of Sodom, punished in both. Ed. Bened. (t. 1. p. 744 c. n. 6.) Ὅτι δέ τινες καὶ ἐνταῦθα καὶ ἐκεῖ κολάζονται, ὅταν μὴ τὴν ἀξίαν τοῦ μεγέθους τῶν ἁμαρτημάτων ἐνταῦθα ἀπολάβωσι τιμωρίαν, κ. τ. λ. Ed.]

[62] In Marc. 3. ap. Bibl. Patr. Paris. 1654. t. 1. p. 411. (ap. Bibl. Max. t. 4. p. 377 h. 5.) .... Cum de blasphemiæ peccato Salvator [al. Servator] noster disserit, neque con-

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blasphemy, he neither determines blasphemy against the Son to be absolutely remissible, nor the blasphemy against the Holy Ghost to be simply irremissible; as if there was no place of repentance left for such blasphemers, when they were disposed to return to a sober mind: but only by drawing a comparison betwixt the one and the other, he shows, that the blasphemy against the Son ought to be esteemed the lesser of the two, because it seems to be levelled against him only as man.'

Now from what has hitherto been discoursed, it is easy to conceive after what manner the discipline of the Church was exercised upon such sort of blasphemers. For, first, if all apostates, and idolaters, and such as denied Christ, or blasphemed him, or denied his divinity, or the divinity of the Holy Ghost, and such as fell into heresy or schism, were reputed in some measure to blaspheme the Holy Ghost; then the same punishments that were inflicted on all such offenders, must consequently be reckoned the punishments of those that blasphemed the Holy Ghost. And since we have seen those punishments under those respective heads before, [in several sections of the fourth and sixth chapters respectively,] we need inquire no further after them in this place; but only observe, secondly, that the Ancients, as many at least as went upon this supposition, that the blasphemy against the Holy Ghost was committed in these several crimes, could not imagine it to be a sin simply and absolutely incapable of pardon: because they did not shut the door of repentance to any such offenders, or reckon them altogether reprobate and desperate, but invited them to repent, and prayed for their conversion, and received them again to peace and communion upon their humble confession and evidences of a true repentance. Which argues, that they did not believe the sin against the Holy Ghost to be altogether unpardonable, but only to the impenitent; since they granted pardon to the penitent in this world, and gave them hopes of obtaining pardon from God in the world to come.

vicium in Filium absolute remissibile, neque blasphemiam rursus in Spiritum Sanctum irremissibile simpliciter definire vult: quasi nullus prorsus ejusmodi blasphemis, dummodo ad sanam mentem redire in animum induxerint, pœnitentiæ locus relictus sit; verum, comparatione quadam inter hanc et illam facta, indicat eam, quæ cadit in Filium, tanquam quæ in hominem proxime ferri videatur, multo minorem censeri illa, quæ temerario nefarioque ausu effunditur in Spiritum Sanctum.

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It is true, indeed, St. Austin and several others in the Latin Church seem to say, that this sin is altogether unpardonable, both in this world and the next. But if we rightly take their meaning, they differ not at all from the former. For they suppose that no man perfectly commits the sin against the Holy Ghost, but he that finally dies obdurate, and in resistance to all the gracious motions and operations of the Holy Spirit to the end of his days: in which case, it is but natural to conclude from the nature of the thing that such men can have no pardon for their sin, neither in this world nor the world to come: not because any thing they do in their lifetime makes it an unpardonable sin in itself; but because they wilfully continue impenitent to the last, and so make it impossible and impracticable, upon the principles of the Gospel, to obtain pardon either of God or his Church, in this world or the world to come: since the covenant of grace and pardon only respects those who embrace it in this life, and not such as put off repentance to another world, where they will repent without remedy, or, in the Apostle's words, "find no room for repentance, (or change of God's purposes,) though they seek it carefully with tears."

In this sense Fulgentius understands our Saviour's words as menacing punishment to those that obstinately continue in their wickedness, and let judgment overtake them in their sins. He says[63], 'Repentance is of advantage to every man in this life, whatever time he truly turns to God, *quamlibet iniquus, quamlibet annosus, although he be the greatest of sinners,*

[63] De Fide ad Petrum, c. 3. n. 39. (int. Oper. Augustin. t. 6. append. p. 26 e.) Proinde omni homini in hac vita esse potest utilis pœnitentia, quam quocunque tempore homo egerit, quamlibet iniquus, quamlibet annosus, si toto corde renuntiaverit peccatis præteritis, et pro eis in conspectu Dei non solum corporis, sed etiam cordis lacrymas fuderit, et malorum operum maculas bonis operibus diluere curaverit, omnium peccatorum suorum indulgentiam mox habebit.—Item, n. 40. (f.) Veruntamen nullus hominum debet sub spe misericordiæ Dei in suis diutius remanere peccatis; cum etiam in ipso corpore nemo velit sub spe futuræ salutis diutius ægrotare. Tales enim, qui ab iniquitatibus suis recedere negligunt, et sibi de Deo indulgentiam repromittunt, nonnunquam ita præveniantur repentino Dei furore, ut nec conversionis tempus, nec beneficium remissionis inveniant.—Item, n. 41. (p. 27 a.) Sicut enim misericordia suscipit absolvitque conversos, ita justitia repellet et puniet obduratos. Hi sunt, qui, peccantes in Spiritum Sanctum, neque in hoc sæculo neque in futuro remissionem accipient peccatorum.

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although he be grown old in sin: but if he continue obdurate to the last, there is no mercy for him. For as mercy will receive and absolve those that are converted, so justice will repel and punish the obdurate. For they are those who sin against the Holy Ghost, and shall not have remission of sins either in this world or the world to come.' The author of the Book of True and False Repentance[64], under the name of St. Austin, says the same: 'That they only sin against the Holy Ghost who continue impenitent unto death. For the Holy Spirit is love, who gives his grace to us as an earnest. He therefore that sins, and desires not to recover his grace, nor ever after is concerned to be loved by him, nor seeks to him from whom he received his earnest, sins against the Holy Spirit, and shall never obtain pardon, either living or after death: but no one sins against the Holy Spirit that flies unto him for mercy.' And therefore he says, 'Our Saviour's words to the Jews were rather an admonition to them not to continue in sin, because if they went on as they had begun, their blasphemy would lead them unto death.' Bacchiarius[65], an African writer about the time of St. Austin, explains himself after the same manner. He says, 'This sin consists in such a despair of God's mercy, as makes men give over all hopes of attaining by the power of God to that state and condition from which they are fallen. And so consequently go on in sin without repentance to their lives' end.'

St. Austin[66] speaks often of this crime, and he places it in a continual resistance of the motions and graces of the Holy Spirit, by an invincible hardness of heart and final impenitency to the end of a man's days. 'Some,' says he, 'placed it in

[64] C. 4. t. 4. (ibid. p. 234 b.) Sed soli peccant in Spiritum Sanctum, qui impœnitentes exsistunt usque ad mortem. Spiritus enim Sanctus, caritas est Divinitatis, amor est Genitoris et genitæ Veritatis, qui suam gratiam nobis tribuit sui ipsius arrham. Qui igitur peccat, et gratiam suam recuperare non amat, et nunquam curat ab eo diligi, qui totus est amor et caritas, nec ad eum tendit unde sumpsit arrham, in Spiritum Sanctum peccat, et nunquam post mortem, sicut nec vivens consequetur veniam: sicque nullus peccat in Spiritum Sanctum, qui fugit ad ipsum.

[65] Ep. de Recipiend. Laps. ap. Bibl. Patr. ut supra, t. 3. p. 133. (ap. Galland. [s. 22.] t. 9. p. 198 b.) Ego autem dico hoc ipsum, desperare de Domino in Spiritum esse peccare, quia Dominus Spiritus est; et ideo non remittitur ei, quia non crediderit Dominum reddere sibi posse quæ [al. quod] perdidit.

[66] Serm. 11. de Verb. Dom. c. 4. [al. Serm. 71.] (t. 5. p. 387 d.)

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the commission of mortal sins after baptism, and after having received the Holy Ghost, as doing despite to so great a gift of Christ, by falling into such sins as adultery, murder, apostasy, or separation from the Catholic Church.' But this, he thinks, cannot be the meaning of it; because 'the Church allows room for repentance for all sins, and corrects heretics only with this intent, that they may repent.' He says further[67], 'that it consists not in denying the divinity or person of the Holy Ghost, or believing him to be a creature, unless men persist in these errors to the end of their days. For many Catholic Christians were once Jews, or Pagans, or heretics, such as the Arians, Eunomians, Macedonians, Sabellians, Patripassians, and Photinians, who all deny either the divinity or the personality of the Holy Ghost. And if all these, who speak against the Holy Ghost, have no forgiveness, in vain do we promise or preach to men that they should turn to God, and obtain peace and

Nonnullis videtur eos tantummodo peccare in Spiritum Sanctum, qui, lavacro regenerationis abluti in ecclesia, et accepto Spiritu Sancto, velut tanto postea dono Salvatoris ingrati, mortifero aliquo peccato se immerserint: qualia sunt vel adulteria, vel homicidia, vel ipsa discessio, sive omni modo a nomine Christiano, sive a Catholica ecclesia. Sed iste sensus unde probari possit, ignoro: cum et pœnitentiæ quorumque criminum locus in ecclesia non negetur; et ipsos hæreticos ad hoc utique corripiendos dicat Apostolus; *Ne forte det illis Deus pœnitentiam ad cognoscendam veritatem, et resipiscant a Diaboli laqueis, a quo captivi tenentur secundum ipsius voluntatem.*

[67] Ibid. c. 3. (p. 386 g, h. p. 387 a.) ... Quidam hæretici ipsum omnino Spiritum Sanctum vel non creatorem, sed creaturam esse contendunt; sicut Ariani et Eunomiani et Macedoniani; vel eum prorsus ita negant, ut ipsum Deum negent esse Trinitatem, sed tantummodo esse Deum Patrem asseverant, et ipsum aliquando vocari Filium, aliquando vocari Spiritum Sanctum; sicut Sabelliani, quos quidam Patripassianos vocant, ideo quia Patrem perhibent [esse] passum: cujus cum negant esse aliquem Filium, sine dubio negant esse Spiritum Sanctum. Photiniani quoque Patrem solum esse dicentes Deum, Filium vero non nisi hominem, negant omnino esse tertiam personam Spiritum Sanctum. Manifestum est igitur, et a Paganis, et a Judæis, et ab hæreticis blasphemari Spiritum Sanctum. Nunquidnam ergo deserendi sunt, et sine ulla spe deputandi, quoniam fixa sententia est, *Qui verbum dixerit contra Spiritum Sanctum, non ei dimitti, neque in hoc sæculo, neque in futuro:* et illi soli existimandi sunt ab hujus gravissimi peccati reatu liberi, qui ex infantia sunt Catholici? Nam quicunque verbo Dei crediderunt, ut Catholici fierent, utique aut ex Paganis, aut ex Judæis, aut ex hæreticis, in gratiam Christi pacemque venerunt: quibus si non est dimissum quod dixerunt verbum contra Spiritum Sanctum, inaniter promittitur et prædicatur hominibus, ut convertantur ad Deum, et sive in baptismo sive in ecclesia pacem remissionemque accipiant peccatorum.

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remission of sins by baptism, or in the Church. For it is not said, with any exception, This sin shall not be forgiven, save only in baptism: but, It shall not be forgiven, neither in this world, nor in the world to come.' Hence he infers, that it is not all kind of blasphemy against the Holy Ghost, but a particular sort of blasphemy that is thus threatened. And that is, final impenitency, or resisting to the uttermost the gracious offers of remission of sins made by the Holy Ghost. 'This impenitency[68] is the blasphemy that has neither remission in this world, nor in the world to come. But of this impenitency no one can judge, so long as a man lives in this life. We are to despair of no man, so long as the patience of God leads him to repentance, and does not snatch away the sinner out of life, who would not the death of a sinner, but rather that he should return and live. A man is a Pagan to day, but how knowest thou but that he may become a Christian to-morrow? To day he is an unbelieving Jew: but what if to-morrow he should believe in Christ? To-day he is an heretic: but what if to-morrow he should embrace the Catholic truth? To-day he is a schismatic: but what if to-morrow he should return to the peace of the Church? What if they, whom you mark as immersed in any kind of error, and damn as desperate, should repent before they end this life, and find true life in the world to come? Judge nothing, brethren, before the time. For this

[68] Ibid. c. 13. (p. 394 d.) Hæc omnino impœnitentia non habet remissionem, neque in hoc sæculo, neque in futuro: quia pœnitentia impetrat remissionem in hoc sæculo, quæ valeat in futuro. Sed ista impœnitentia vel cor impœnitens, quamdiu quisque in hac carne vivit, non potest judicari. De nullo enim desperandum est, quamdiu patientia Dei ad pœnitentiam adducit, nec de hac vita rapit impium, qui non mortem vult impii, quantum ut revertatur et vivat. Paganus est hodie: unde scis, utrum sit futurus crastino Christianus? Judæus infidelis est hodie: quid, si cras credat in Christum? Hæreticus est hodie: quid si cras sequatur Catholicam veritatem? Schismaticus est hodie: quid si cras amplectatur Catholicam pacem? Quid si isti, quos in quocunque genere erroris notas, et tanquam desperatissimos damnas, antequam finiant istam vitam, agant pœnitentiam, et inveniant veram vitam in futuro? Proinde, fratres, etiam ad hoc vos admoneat, quod ait Apostolus, *Nolite ante tempus quidquam judicare.* Hæc enim blasphemia Spiritus, cui nunquam est ulla remissio, (quam non omnem, sed quandam intelleximus, eamque perseverantem duritiam cordis impœnitentis vel diximus vel invenimus, vel etiam quantum existimamus, ostendimus,) non potest in quoquam, ut diximus, dum in hac adhuc vita est, deprehendi.

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blasphemy of the Spirit, which has no remission, and which we have 'shown to be a persevering hardness of an impenitent heart, cannot be descried in any man whilst he continues in this life.' At last he concludes[69]: 'There is but one way to avoid the condemnation of this unpardonable blasphemy, which is, to beware of an impenitent heart, and to believe that repentance profits not but only in the Catholic Church, where remission is granted, and the unity of the Spirit is preserved in the bond of peace.'

St. Austin often repeats this notion[70], and he gives the same account of what the Apostle calls the sin unto death, for which he forbids men to pray. He says, it means 'that hardness and impenitency of heart, whereby men obstinately reject faith, and charity, and remission of sins to their last hour.' And whereas he had seemed to say in one place[71], 'that this blasphemy consisted in a malicious and envious opposition to brotherly charity, after a man had received the grace of the Holy Ghost:' he explains this in his Retractations[72], saying, 'there ought to be added this condition, *if he ends this wicked perverseness of mind:* because we are not to despair of the very worst man, while he continues in this life; neither is there any imprudence in praying for him, of whom we do not despair.'

[69] Serm. 11. de Verb. Dom. [al. Serm. 71.] c. 24. (ibid. p. 403 g.) Unum suffugium est, ne sit irremissibilis blasphemia, ut cor impœnitens caveatur, nec aliter pœnitentia prodesse credatur, nisi ut teneatur ecclesia, ubi remissio peccatorum datur, et societas spiritus in pacis vinculo custoditur.

[70] De Correpl. et Grat. c. 12. (t. 10. p. 770 b.) Ego autem dico id esse peccatum [scil. ad mortem], fidem, quæ per dilectionem operatur, deferere usque ad mortem.—Ep. 1. [al. Ep. 185. c. 11.] (t. 2. p. 662 f.) Hoc est autem duritia cordis usque ad finem hujus vitæ, qua homo recusat in unitate corporis Christi, quod vivificat Spiritus Sanctus, remissionem accipere peccatorum.—Enchirid. c. 83. (t. 6. p. 228 c.) Qui vero, in ecclesia remitti peccata non credens, contemnit tantam divini muneris largitatem, et in hac obstinatione mentis diem claudit extremum, reus est irremissibili peccato in Spiritum Sanctum, in quo Christus peccata dimittit.

[71] De Serm. Dom. in Mont. l. 1. c. 22. (t. 3. part. 2. p. 198 c.) Nunc enim in Filium hominis dixerunt verbum nequam; et potest eis dimitti, si conversi fuerint, et ei crediderint, et Spiritum Sanctum acceperint: quo accepto, si fraternitati invidere, et gratiam, quam acceperunt, oppugnare voluerint, non eis dimitti, neque in hoc sæculo neque in futuro.

[72] L. 1. c. 19. (t. 1. p. 31 a.) Sed tamen addendum fuit, *si in hac tam scelerata mentis perversitate finierit hanc vitam;* quoniam de quocunque pessimo in hac vita constituto non est utique desperandum, nec pro illo imprudenter oratur, de quo non desperatur.

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He confirms this notion again at large in his Commentary upon the Epistle to the Romans: where[73] he first gives this description of it: 'That man sins against the Holy Ghost, who despairing, or deriding, or contemning the preaching of grace, by which sins are washed away, and the preaching of peace, by which we are reconciled to God, refuses to repent of his sins, and resolves to continue hardening himself in the impious and deadly sweetness of them, and therein persists to his last end.' He then shows by great variety of instances, that any other blasphemy against the Spirit is capable of pardon, except this, which includes obduration to the last. 'The Pagans[74] daily blaspheme the whole Trinity and the whole system of the Christian religion: and yet the Church makes no scruple to receive them to pardon of sins by baptism upon their conversion. The Jews are charged by Stephen for resisting the Holy Ghost, and yet Paul, who was then one of the number of those whom he so charged, was afterwards filled with the same Spirit which he had resisted. The Samaritans opposed the

[73] Expos. in Rom. 1. t. 4. p. 363. (t. 3. part. 2. p. 933 b.) Ille peccat in Spiritum Sanctum, qui, desperans vel irridens atque contemnens prædicationem gratiæ, per quam peccata diluuntur, et pacis, per quam reconciliamur Deo, detrectat agere pœnitentiam de peccatis suis, et in eorum impia atque mortifera quadam suavitate perdurandum sibi esse decernit, et in finem usque perdurat.

[74] Ibid. (p. 934 a.) Nam et Pagani, qui appellantur, etiam nunc totam nostram religionem, quia jam ferro et cædibus prohibentur, maledictis contumeliisque insectantur: et, quidquid de ipsa Trinitate dicimus, negando et blasphemando contemnunt. Non enim excipiunt sibi Spiritum Sanctum, quem venerentur, ut in cætera sæviant: sed simul adversus omnia, quæcunque solicite de Trina Dei Majestate loquimur, quanto possunt furore impietatis oblatrant. Nam neque de ipso Deo Patre digna sentiunt, quem partim [sic] penitus negant, partim sic fatentur, ut de illo falsa fingendo, non utique illum, sed sua figmenta venerentur. Multo magis ergo, quod de Filio Dei, vel de Spiritu Sancto dicimus, suo impio more deridere, quam nostra pia societate colere, maluerunt. Quos tamen, quantum possumus, adhortamur ad Christum cognoscendum, et per ipsum Patrem Deum, summoque et vero Imperatori militandum esse suademus; eosque, promissa impunitate præteritorum omnium peccatorum, invitamus ad fidem. Qua in re satis judicamus, etiam si quid adversus Spiritum Sanctum in sua sacrilega superstitione dixerunt, cum Christiani facti fuerint, sine ulla caligine dubitationis ignosci. Judæi vero quales adversus Spiritum Sanctum fuerint, testis est Stephanus, quem ipso Spiritu Sancto plenum lapidaverunt, cum illa omnia, quæ in eos dixit, ipse Spiritus dixerit. In quibus verbis apertissime dictum est Judæis, *Vos semper restitistis Spiritui Sancto.* In illo tamen numero Judæorum resistentium Spiritui Sancto, et non ob aliud Stephanum, vas ejus, nisi quod ipse eo plenus erat, lapidantium, etiam Paulus Apostolus erat, in manibus omnium quorum vesti-

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Holy Ghost, and yet both Christ and his Apostles attest to the conversion of many of them. Simon Magus had conceived very ill opinions of the Holy Spirit, so as to think his gifts might be purchased with money; yet St. Peter did not despair of him, so as to leave him no room for pardon, but kindly admonished him to repent. Neither does the Catholic Church shut the gate of pardon to any heretics or schismatics, or leave them without hopes of appeasing God upon their correction and amendment: though some of them deny the very being and person of the Holy Ghost; others make him a mere creature, and deny his Godhead; others make the substance of the whole Trinity mutable and corruptible; others deny the

menta servabat; quod ipse sibi postea etiam pœnitendo increpitat, eo ipso Spiritu jam plenissimus, cui primo inanissimus resistebat, et paratus jam lapidari pro talibus dictis, qualium prædicatorem ipse lapidaverat. Quid Samaritani? Nonne ita Spiritui Sancto adversantur, ut ipsam prophetiam penitus conentur extinguere, quæ per Spiritum Sanctum ministrata est? Quorum tamen saluti et ipse Dominus attestatur, in eo, qui de decem leprosis mundatis solus reversus est ut ageret gratias, cum esset Samaritanus; et in illa muliere, cum qua ad puteum sexta hora locutus est, vel eis, qui per illam crediderunt. Post Domini autem ascensionem, sicut in Actibus Apostolorum scriptum est, quanta gratulatione sanctorum recipit Samaria verbum Dei! Simonem quoque Magum arguens Petrus Apostolus, quod tam male de Spiritu Sancto senserit, ut eum venalem putans pecunia sibi emendum poposcerit, non tamen ita de illo desperavit, ut veniæ locum nullum relinqueret: nam benigne etiam, ut eum pœniteret, admonuit. Ipsa denique Catholicæ ecclesiæ tam insignis auctoritas, quæ in eodem dono Spiritus Sancti omnium sanctorum mater, toto fœcunda orbe diffunditur, cui unquam hæretico vel schismatico spem liberationis, si se corrigat, amputavit? Cui placandi Dei aditum clausit? Nonne omnes ad ubera sua, quæ superbo fastidio reliquerunt, cum lacrymis revocat? Quis vero vel de principibus, vel de gregibus hæreticorum invenitur, qui non adversetur Spiritui Sancto? Nisi forte quisquam tam perverse sentit, ut arbitretur eum teneri reum, qui adversus Spiritum Sanctum aliquid dixerit; eum vero, qui adversus Spiritum Sanctum multa fecerit, non teneri. Qui autem tanta evidentia contra Spiritum Sanctum pugnant, quam illi, qui adversus ecclesiæ pacem superbissimis contentionibus sæviunt? Sed si de verbis quæstio est, quæro, utrum nihil dicant adversus Spiritum Sanctum, cum alii eum, quod ad ipsum proprie pertinet, omnino non esse asseverent: sed ita esse unum Deum, ut idem ipse Pater, idem ipse Filius, idem ipse Spiritus Sanctus appelletur. Alii fateantur quidem esse Spiritum Sanctum; sed æqualem Filio, vel omnino esse Deum negent. Alii unam quidem et eandem Trinitatis substantiam esse fateantur, sed de ipsa divina substantia tam impie sentiant, ut eam commutabilem et corruptibilem putent: ipsumque Spiritum Sanctum, quem Dominus discipulis se missurum esse promisit, non quinquagesimo die post ejus resurrectionem, sicut Apostolorum Acta testantur, sed post trecentos fere annos per hominem venisse confingant. Alii similiter adventum ejus, quem tenemus, negent: et eum prophetas in Phrygia, per quos tanto post loqueretur,

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mission of the Holy Ghost upon the Apostles, and make his first descent to be upon Montanus; and others despise his sacraments, and rebaptize those who were baptized before in the name of the Father, Son, and Holy Ghost.'

Nay, he thinks[75] 'that some of those very Jews, to whom our Saviour gave a caution against this crime, afterwards repented of their blasphemy, though proceeding from envy and malice: and that St. Paul may be reckoned one of that number; being a blasphemer, and a persecutor and injurious, as they were, in ignorance and unbelief; and putting himself in the number of those who were sometimes foolish, disobedient, deceived, serving divers lusts and pleasures, living in envy and malice, hateful and hating one another. If therefore neither Pagans, nor Hebrews, nor heretics, nor schismatics, yet unbaptized, are precluded from the sacrament of baptism, whatever opposition they have made to the Holy Ghost before, if they sincerely repent and condemn their former life; if also they who have attained to the knowledge of the truth, and are baptized, may, after they have fallen into sin and resisted the Holy Ghost, be restored to the peace of God by repentance; finally, if they, to whom our Saviour objected blasphemy against the Holy Ghost, might repent and be healed by flying to the mercy of God; what remains but that by the sin against the

elegisse contendant. Alii sacramenta ejus exsufflent, et baptizatos in nomine Patris et Filii et Spiritus Sancti denuo baptizare non dubitent. Sed ne pergam per singula, quæ sunt innumerabilia, his certe omnibus, quos pro tempore breviter attigi, ad sponsam Christi redeuntibus, et errorem atque impietatem pœnitendo damnantibus, nulla Catholica disciplina negandam ecclesiæ pacem, et claudenda viscera misericordiæ judicavit.

[75] Ibid. p. 366. (p. 938 g. et p. 939 a.) Veruntamen si ex eo quoque hominum numero, quibus Dominus illud crimen objicit, veniens ad fidem Christi, et pœnitendi cruciatibus edomita invidia salutem cum lacrymis poscens, sicut etiam nonnulli eorum fortasse fecerunt; quæro, utrum quisquam tanto errore crudescat, ut aut neget eos ad Christi baptismum admitti oportuisse, aut frustra admissos esse contendat? Nam si quis per invidiam opera divina blasphemat, quoniam bonis Dei, hoc est donis Dei malitia sua resistit, in Spiritum Sanctum peccare, et propterea spem veniæ non habere existimandus est; attendamus, utrum ex eo numero fuerit Apostolus Paulus? Dicit enim, *Qui prius fui blasphemus, et persecutor, et injuriosus; sed misericordiam consecutus sum, quia ignorans feci in incredulitate.* An forte ideo non pertinuit ad hoc genus criminis, quia non erat invidus? Audiamus, quid alibi dicat: *Fuimus enim,* inquit, *et nos stulti aliquando et increduli, errantes, servientes voluptatibus et desideriis variis, in malitia et invidia agentes, abominabiles, invicem odio habentes.* Si ergo nec Paganis, nec Hebræis, nec hæreti-

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Holy Ghost, which our Lord says "is never forgiven, neither in this world nor the world to come," we should understand nothing else but perseverance in malignity and wickedness, with despair of the indulgence and mercy of God? For this is to resist the grace and peace of the Spirit, of which we are speaking. He says also, that our Saviour in the same place, where he reproves the Jews for their blasphemy, intimates that the door of repentance and amendment was not yet shut against them, when he says, "Either make the tree good, and its fruit good; or else make the tree evil, and its fruit evil." Which could not with any reason have been said to them, if now for that blasphemy they could not have changed their mind for the better, and have brought forth the fruit of good works, or should in vain have brought them forth without remission of their sin.' He therefore concludes[76], 'that they had not yet committed fully the unpardonable sin, but only begun it, in saying that he cast out devils by Beelzebub, and that Christ admonishes them not to complete it, by resisting his grace and peace, either by despairing of pardon, or presuming on their own righteousness, or continuing impenitent, and per-

cis, aut schismaticis nondum baptizatis, ad baptismum Christi aditus clauditur, ubi condemnata vita priore in melius commutentur; quamvis Christianitati et ecclesiæ Dei adversantes, antequam Christianis sacramentis abluerentur, etiam Spiritui Sancto, quanta potuerunt infestatione restiterint; si etiam hominibus, qui usque ad sacramentorum perceptionem veritatis scientiam perceperunt, et post hæc lapsi Spiritui Sancto restiterunt, ad sanitatem redeuntibus, et pacem Dei pœnitendo quærentibus, auxilium misericordiæ non negatur; si denique de illis ipsis, quibus blasphemiam in Spiritum Sanctum ab eis prolatam Dominus objecit, si qui resipiscentes ad Dei gratiam confugerunt, sine ulla dubitatione sanati sunt; quid aliud restat, nisi ut peccatum in Spiritum Sanctum, quod neque in hoc sæculo neque in futuro dimitti Dominus dicit, nullum intelligatur nisi perseverantia in nequitia et in malignitate, cum desperatione indulgentiæ Dei? Hoc est enim gratiæ illius et paci resistere, de quibus nobis sermo nunc ortus est. Nam hinc licet advertere, etiam ipsis Judæis, quorum blasphemiam Dominus arguit, non fuisse clausum corrigendi se et pœnitendi locum, quod idem Dominus in ea ipsa reprehensione ait illis, *Aut facite arborem bonam et fructum ejus bonum; aut facite arborem malam et fructum ejus malum.* Quod utique nulla ratione diceretur eis, si propter illam blasphemiam jam commutare animum in melius, et recte factorum fructus generare non possent, aut frustra etiam sine peccati sui dimissione generent; &c.

[76] Ibid. (p. 940 b.) Cum dixissent Judæi, quod in Beelzebub ejiceret dæmonia, misericorditer eos voluit admonere, ne verbum dicerent, et blasphemiam in Spiritum Sanctum; hoc est, ne gratiæ Dei pacique resisterent, quam per Spiritum Sanctum donare Dominus venerat. Non quia jam hoc fecerant, quod sibi neque in hoc sæculo neque in futuro dimitteretur; sed ne desperando de venia, aut

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severing in their sins: for this was to speak the blasphemous word against the Holy Ghost, by which Christ wrought those miracles to bring them to his grace and peace.' He observes here[77], 'that to speak blasphemy against the Holy Ghost, is not put to denote barely the uttering it with the tongue, but the conceiving it in the heart, and expressing it in actions. For as they are not properly said to confess God, who do it only with the sound of their lips, and not with their good works: so he, who speaks the unpardonable word against the Holy Ghost, is not presumed to say it perfectly, unless he do as well as say it: that is, despair of the grace and peace which the Spirit gives, and resolve to persevere in his sins. That as the others deny God in their works, so these say by their works that they resolve to persevere in an evil life and corrupt morals, and so say and so do, that is, continue in them to the end of their days. Which if they do, what needs any one wonder that their blasphemy should be unpardonable? Or who is it now that cannot understand both that the Lord Jesus by that commination called the Jews to repentance, that he might grant them grace and peace by their believing on him: and also how it becomes impossible that they should have par-

quasi de sua justitia præsumendo, et pœnitentiam non agendo, aut perseverando in peccatis, hoc facerent: hoc modo enim dicerent verbum, hoc est blasphemiam in Spiritum Sanctum, in quo Dominus signa illa propter largiendam gratiam pacemque faciebat, si perseverantia peccatorum ipsi gratiæ pacique resisterent.

[77] Ibid. (c.) *Verbum* enim *dicere*, non ita videtur hic positum, ut tantummodo illud intelligatur, quod per linguam fabricamus, sed quod corde conceptum, etiam opere exprimimus. Sicut enim non confitentur Deum, qui tantum oris sono confitentur, non etiam bonis operibus: nam de his dictum est, *Confitentur enim se nosse Deum, factis autem negant.* Ex quo manifestum est dici aliquid factis, sicut manifestum est negari aliquid factis. Et sicut illud, quod ait Apostolus, *Nemo dicit Dominus Jesus, nisi in Spiritu Sancto,* non potest recte intelligi, nisi in factis dicere intelligatur. Non enim hoc in Spiritu Sancto dicere putandi sunt, quibus ipse Dominus dicit, *Aut quid mihi dicitis, Domine! Domine! et non facitis quæ dico vobis?* et illud, *Non omnis, qui mihi dicit, Domine! Domine! intrabit in regnum cœlorum.* Sic etiam qui hoc verbum, quod sine venia vult intelligi Dominus, in Spiritum Sanctum dicit, hoc est, qui, desperans de gratia et pace quam donat, in peccatis suis perseverandum sibi esse dicit, dicere intelligendus est factis: ut quomodo illi factis Dominum negant, sic isti factis dicant se in mala vita sua et perditis moribus perseveraturos, et ita faciant, hoc est, perseverent. Quod si faciunt, quis jam miretur, aut quis non intelligat, et Dominum Jesum Christum per illam comminationem ad pœnitentiam vocasse Judæos, ut eis in se credentibus gratiam pacemque donaret: et huic gratiæ pacique resistentibus et hoc modo verbum atque

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don either in this world or the world to come, who resist this grace and peace, and after this manner speak the word of blasphemy against the Holy Ghost, that is, by a desperate and impious obstinacy of mind persevere in their sins, and proudly resist God without any humility of confession or repentance?'

This was St. Austin's constant and invariable sense of this matter, out of which the Schoolmen, I know not how, have raised *six several species* of blasphemy against the Holy Ghost, viz. despair, presumption, final impenitency, obstinacy in sin, opposing and impugning the truth which a man knows, and envious malice against the grace of the brethren: whereas nothing can be plainer than that St. Austin resolves the whole matter into obstinacy in opposing the methods of divine grace, and continuing in this obduration finally without repentance. Other sins may lead the way to this blasphemy in word or action, as infidelity or reviling the Spirit in Jews or Heathens; or heresy, or schism, or an immoral life in Christians after baptism: but all this is only inchoative blasphemy, which does not render it absolutely unpardonable: for many of all these sorts have repented and obtained pardon: but when men continue obstinate in any of these sins, and finally die impenitent in them, then their sins become punishable in both worlds, and pardonable in neither; not for want of mercy in God or his Church, but for want of repentance and capacity in the subject.

And by this account it is easy now to determine what sort of punishments and ecclesiastical censures were inflicted on this crime, as well in the first rise and beginning, as in the progress and consummation of it. The same punishment that was laid upon idolatry, or apostasy, or denying the divinity of Christ or the Holy Spirit, or lapsing into any great immorality or other blasphemy after baptism, was laid upon this sin of blaspheming the Holy Ghost: because it usually began in some of these notorious misdemeanours; of which if men truly repented, the door of mercy was still open to them, and the

blasphemiam in Spiritum Sanctum dicentibus, hoc est, in peccatis suis desperata atque impia mentis obstinatione perseverantibus, et adversus Deum sine humilitate confessionis atque pœnitentiæ superbientibus, neque in hoc sæculo neque in futuro veniam posse concedi?

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Church was ready to receive them again to communion: but if they continued obdurate all their lives, and died in their impenitency; as this was esteemed the consummation of the great sin against the Holy Ghost, and properly the sin unto death; so it could have no forgiveness in this world, nor the world to come. They died excommunicate, and so had neither the solemnity of a Christian burial nor the suffrages of the Church after death; being struck out of her diptychs, and no memorial ever after made of them, as of persons desperate and entirely out of God's favour.

I have been the longer in explaining the sense of the Ancients upon this point, not only because it is not very commonly known, but also because it may be of use, both to caution ungodly men against the danger of final impenitency, which is the consummation of the blasphemy against the Holy Ghost; and likewise serve to comfort the pious, who need be in no concern about the commission of this sin, so long as they truly repent of all sin, and desire to please God in the constant tenour of an holy life. For this sin cannot consist with a true repentance: and though men have begun in any degree to commit it, yet according to the general sense of the Ancients, they are still capable of pardon, if they do not render it unpardonable by their own obstinacy and wilful impenitency to the hour of death, after which it can have no forgiveness in this world or the world to come.

Of profane swearing. All oaths not forbidden.

4. The next transgression of the Third Commandment which they punished with ecclesiastical censure was profane swearing, or reproaching and dishonouring the name of God by oaths and execrations. By which they did not mean all oaths in general, nor yet any single act of rash and hasty swearing, unless attended with some other aggravating crime or circumstance of apostasy, idolatry, perjury, or the like, but only the habit and custom of profane swearing. Chrysostom indeed, and some others, in their sharp invectives against common swearing seem sometimes to carry the matter so far as to deny the lawfulness of all oaths to Christians[76] in any case whatsoever. But, whatever private opinions some few might have of this matter, in which they were not constant or consistent with

[76] Vid. Sixtum Senensem, Biblioth. l. 6. annot. 26. (t. 2. pp. 219, seqq.) where all such passages are collected.

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themselves, as learned men[77] have observed, it is certain there never was any public rule of the Church to forbid this, and much less to make it the subject of ecclesiastical censure. The generality of Christians always esteemed the taking of an oath in necessary cases for confirmation of truth to be a very lawful thing, as appears both from the laws themselves, ecclesiastical as well as civil, and from general practice. One of Constantine's laws is confirmed with a solemn oath in the very body of it, where he promises to encourage any one that shall give just information against the corrupt practices of his ministers, with this formal asseveration[78]: 'As the Most High God shall be merciful to me, and preserve me in safety, according to my desire, in the flourishing state of the commonwealth.'

Nothing was more usual than the taking of oaths for confirmation of contracts, as is evident from that famous law of Arcadius[79], which inflicts many severe penalties upon all that violate their contracts made in the name and confirmed by the authority of Almighty God: and also on such as broke their contracts, which they confirmed by an oath taken in that peculiar form of swearing, *By the emperor's safety;* which was an usual form of an oath among Christians, as ancient as Tertullian, who mentions it in answer to an objection made by the Heathen against them, as if they were enemies to the government, and guilty of treason, because they refused to swear *by the emperor's genius:* to this he replies[80], 'That

[77] Cave, Primitive Christianity, part. 3. ch. 1. p. 213. (pp. 272, &c.) This honest and ingenuous simplicity, &c.

[78] Cod. Theod. l. 9. tit. 1. de Accusation. leg. 4. (t. 3. p. 6.) *Ita mihi Summa Divinitas semper propitia sit, et me incolumem præstet, ut cupio, felicissima et florente republica.*

[79] Ibid. l. 2. tit. 9. de Pactis, leg. 8. (t. 1. p. 133.) Si quis major annis adversus pacta.... putaverit esse veniendum.... non implendo promissa ea, quæ, invocato nomine Dei Omnipotentis, eo auctore solidaverit, inuratur infamia, &c. Eos etiam hujus litis vel jactura dignos jubemus esse vel munere, qui nomina nostra placitis inserentes, salutem principum confirmationem initarum esse juraverint pactionum.

[80] Apol. c. 32. (p. 28 a.) Sed et juramus, sicut non per genios Cæsarum, ita per salutem eorum, quæ est augustior omnibus geniis. Nescitis genios dæmonas dici, et inde diminutiva voce dæmonia? Nos judicium Dei suspicimus in imperatoribus, qui gentibus illos præfecit. Id in eis scimus esse, quod Deus voluit; ideoque et salvum volumus esse quod Deus voluit, et pro magno id juramento habemus. Cæterum dæmonas, id est, genios, adjurare consuevimus, ut illos de hominibus exigamus, non dejerare ut illis honorem divinitatis conferamus.

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though they did not swear by the emperor's genius, yet they made no scruple to swear by the emperor's safety, a thing more august than all the genii in the world. For the genii were nothing but devils. In the emperors they acknowledged God's institution and authority, who set them over the nations: and therefore they desired their safety and preservation, as God's appointment, and made a great and solemn oath of that: but for the demons, or genii, they were used to adjure them, in order to cast them out of the bodies of men, not to swear by them and thereby confer divine honour upon them.' Athanasius [81] mentions the same form as used in his time, both by the Catholics, and by Syrianus the prefect of Egypt, telling Constantius that he swore 'by his safety.' And the like instances are given by Sozomen [82], and Zosimus [83] the Heathen historian.

In the Collation of Carthage [84], Marcellinus, the emperor's commissioner, who was appointed to hear the debate between the Catholics and the Donatists in the time of Honorius, at the entrance of the dispute promised both sides upon oath 'by the admirable mystery of the Trinity, and the sacrament or mystery of the Divine Incarnation, and the safety of the emperors, that he would judge truly according to the allegations of the parties.' And the same form was observed in the military oath taken by the soldiers, when they entered upon the muster-roll, as we learn from Vegetius [85], who lived in the time of the younger Valentinian: he says, 'they swore by God, by Christ,

[81] Ep. ad Monachos. t. 1. p. 866. [Contestatio Secunda] (t. 1. part. 1. p. 311 c.) *Ὀρκίζομεν κατὰ τοῦ Παντοκράτορος Θεοῦ, ὑπὲρ τῆς σωτηρίας τοῦ εὐσεβεστάτου Αὐγούστου Κωνσταντίου, τόν τε ἔπαρχον τῆς Αἰγύπτου Μάξιμον, κ.τ.λ.*—Cf. Athanas. Apol. ad Constant. t. 1. p. 689. (ibid. p. 245 f. n. 24.) *Συνιδὼν Συριανὸς τὸ εὔλογον, διεβεβαιώσατο μαρτυρόμενος τὴν σὴν σωτηρίαν, καὶ ἐπὶ τούτῳ παρῆν τότε καὶ Ἱλάριος, μηκέτι μὲν διοχλεῖν, ἀναφέρειν δὲ ἐπὶ τὴν σὴν θεοσέβειαν.*

[82] L. 9. c. 7. (v. 2. p. 373. 16.).. *Πρὸς τῆς σωτηρίας τοῦ βασιλέως αὐτὸς ὤμοσε, καὶ τοὺς ἄλλους ἄρχοντας παρεσκεύασε, μή ποτε εἰρήνην θέσθαι πρὸς Ἀλάριχον.*

[83] L. 5. c. 49. (p. 643.) *Ὤμνυ δὲ καὶ αὐτὸς ὅρκον, τῆς βασιλείας ἁψάμενος κεφαλῆς, καὶ τοὺς ἄλλους, οἱ τὰς ἀρχὰς εἶχον, ταὐτὸν ποιῆσαι παρασκευάσας.*

[84] Die 1. c. 5. (CC. t. 2. p. 1347 d.) Per admirabile mysterium Trinitatis, per incarnationis Dominicæ sacramentum, et per salutem principum, quod veri invenerit fides, judicaturum me esse promitto.

[85] De Re Millitari, l. 2. c. 5. (p. 33.) Jurant autem per Deum et per Christum et per Spiritum Sanctum, et per majestatem imperatoris, quæ secundum Deum generi humano diligenda est et colenda.

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and the Holy Spirit, and the majesty of the emperor, which, next to God, is to be loved and honoured by mankind.' In many other cases the law required men to swear upon weighty concerns. Constantine [86] required every witness to take an oath before he gave his testimony in any cause. And Justinian not only confirmed this in his Code [87], but added several other cases, in which not only witnesses, but also both the plaintiff and defendant, and the advocates were to take their several oaths upon the Gospels. And this was called [88] *juramentum de calumnia, the oath of calumny*, where the plaintiff was particularly obliged before he could prosecute his action, to swear that he did not bring his action against his adversary with any design to *calumniate* him, but because he thought he had a just and righteous cause: and the defendant was to take a like oath before he could give in his answer. They were likewise obliged by another law [89] to swear, 'that they had given no bribe to the judges or any other person, nor promised to give any, nor would hereafter give any.' And it has been observed before [90], that to prevent simony in elections

[86] Cod. Theod. l. 11. tit. 39. leg. 3. (t. 4. p. 321.) Jurisjurandi religione testes, priusquam perhibeant testimonium, jam dudum arctari præcipimus.

[87] L. 4. tit. 20. de Testibus, leg. 9. (t. 4. p. 858.) In the same words as the preceding.

[88] Ibid. tit. 59. de Jurejurando propter calumniam dando, leg. 1. (t. 4. p. 540. ad calc.) In omnibus causis, sive propter literas fuerit apud te certatum, sive propter instrumenta, sive propter quicquam aliud, in quo necessitas probationis incumbit: sancimus non aliter easdem probationes præstare compelli, nisi prius, qui eas exposcit, juramentum de calumnia præstiterit, &c.—Ibid. leg. 2. (p. 542. ad calc.) Cum [et] judices non aliter causas dirimere concesserimus, nisi sacrosanctis Evangeliis propositis et patronos causarum in omni orbe terrarum prius jurare, et ita perferre causas disposuerimus; necessarium duximus præsentem legem ponere, per quam sancimus in omnibus litibus, quæ fuerint post præsentem legem inchoatæ, non aliter neque actorem neque fugientem in primordio litis exercere certamina, nisi post narrationem et responsionem, antequam utriusque partis advocati sacramentum legitimum præstent, ipsæ principales personæ subeant jus jurandum. Et actor quidem juret, *Non calumniandi animo litem se movisse, sed existimando bonam causam habere.* Reus autem non aliter suis allegationibus utatur, nisi prius et ipse juraverit, *Quod, putans se bona instantia uti, ad reluctandum pervenerit.* Et postea utriusque partis viros disertissimos advocatos, secundum quod jam dispositum est a nobis, juramentum præstare, sacrosanctis videlicet Evangeliis ante judicem positis.

[89] Novel. 124. c. 1. (t. 5. p. 564.) ... In præsentia judicum tangentes sancta Evangelia jurare, quod nihil penitus judicibus, aut patrocinii causa ipsis, vel alii cuicunque personæ, pro hac causa quolibet modo dederunt, aut promiserunt, aut postea dabunt, vel per se, vel per aliam quamcunque mediam personam.

[90] Ch. 6. s. 28. p. 319.

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to ecclesiastical preferments, the electors were obliged by the same laws of Justinian [91] to depose upon oath, 'that they did not choose the party elected either for gift, promise, or friendship, or any other reason, but because they knew him to be in every respect well qualified for such a station.' And the party ordained was likewise to take an oath [92] upon the Holy Gospels, at the time of his ordination, 'that he had neither given by himself, or other, nor promised to give, nor would hereafter give to his ordainer, or to any of his electors, or any other persons any thing to procure him an ordination.' And, for any bishop to ordain another bishop without observing this rule, is 'deposition' by the same law 'both for the ordained and his ordainer.' Which shows also, that the injunction of taking necessary oaths did not only bind in secular and civil affairs, but in ecclesiastical and sacred likewise.

And here,—not to insist upon all that is said in private writers, as Athanasius [93] requiring of Constantius, that his accusers might be put to their oath; and Evagrius [94], archdeacon of Constantinople, swearing upon the holy Gospels; and what is said by St. Austin [95] and many others [96] in justification of this practice in necessary cases;—I only observe that in some Councils, both general and provincial, oaths are expressly required in many cases. The oath of fidelity to kings is required by the fifth Council of Toledo [97], to be taken by all,

[91] Novel. 123. c. 1. See before, b. 4. ch. 2. s. 18. v. 2. p. 31. n. 4.

[92] Novel. 137. c. 2. See ibid. the second part of n. 4.

[93] Apol. ad Constant. t. 1. p. 678. (t. 1. part 1. p. 238 a. n. 8.) Ἐβουλόμην δὲ αὐτὸν, ὅστις ἐστὶν, ἐνταῦθα παρεῖναι, καὶ ἐπ' αὐτῆς τῆς ἀληθείας ἐρωτῆσαι· ἃ γὰρ ὡς Θεοῦ παρόντος λαλοῦμεν, τοῦτον ὅρκον ἔχομεν ἡμεῖς οἱ Χριστιανοί.

[94] Vid. Sozom. l. 6. c. 30. (p. 263. 43.) Ὁ δὲ τῆς βίβλου ἐφαψάμενος, ἢ μὴν ὧδε πράξειν ἐπωμόσατο.

[95] Ep. 154. [al. 47.] ad Publicol. (t. 2. p. 110 f.) Si tamen illud non adhuc movet, quod in Novo Testamento dictum est, ne omnino juremus. Quod quidem mihi propterea dictum videtur, non quia verum jurare peccatum est, sed quia pejerare immane peccatum est. —De Serm. Dom. in Mont. l. 1. c. 17. (t. 3. part 2. p. 187 g.).... Qui intelligit, non in bonis, sed in necessariis jurationem habendam, refrænet se quantum potest, &c.

[96] Greg. Nazianzen. Ep. 219. ad Theodor. tot. (t. 1. p. 908 a.) Ὁ Θεὸς χαρίσαιτο, κ. τ. λ.—Basil. in Ps. 14. t. 1. p. 133. (t. 1. part 2. p. 504 a.) Τί δὴ ποτε ἐνταῦθα μὲν ἡ εὐορκία συγχωρεῖται, κ. τ. λ. — Hieron. in Matth. 5. See afterwards, s. 6. n. 7, following.

[97] Vid. C. Tolet. 5. c. 2. (t. 5. p. 1736 b.).... Quodque ... divinis sacramentis spospondimus, contra hostes laborantibus erit? quæ fides ultra cum aliis gentibus in pace credenda? quod fœdus non violandum? quæ in hostibus jurata spon-

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both clergy and laity. And a reference is made to a former Council of all Spain, where the same oath was established; that is, the fourth Council of Toledo; where[98] a complaint is made of many nations 'breaking the oath of fidelity taken to their kings: which,' they rightly observe, 'destroys their credit with all nations in matters of leagues and treaties about peace and war. For what enemy can depend upon their promises, though given upon oath, who do not preserve the faith which they swear to their own kings? Such violation of oaths and fidelity to their kings is sacrilege: because it is not only a breach of compact against them, but against God, in whose name the promise is made.' The same Council[99] takes notice of kings promising upon oath to pardon criminals in some special cases. And the eighth Council of Toledo[1] mentions many cases in which it was usual to confirm matters with a solemn oath; as the making of leagues; the settling of lasting and inviolable friendship; the taking of the evidence and depositions of witnesses in law; and, in want of such evidence, the allowing a man to clear his own innocence by an oath of purgation. And in the sixth General Council, held at Constantinople[2], Georgius the *chartophylax* is appointed several times to take his corporal oath, by the holy Scriptures and God who

sio [stabilis] permanebit, quando nec ipsis propriis regibus juratam fidem conservant? ... Sacrilegium quippe est, si violetur a gentibus regum suorum promissa fides; quia non solum in eos fit pacti transgressio, sed et in Deum quidem, in cujus nomine pollicetur ipsa promissio.

[98] C. 74. [al. 75.] (ibid. p. 1723 c.).... Quæ in hostibus jurata sponsio [stabilis] permanebit, quando nec ipsis propriis regibus juratam fidem conservant?.... Sacrilegium quippe est, si violetur a gentibus regum suorum promissa fides: quia non solum in eos sit pacti transgressio, sed et in Deum, in cujus nomine pollicetur ipsa promissio, &c.

[99] C. 30. [al. 31.] (ibid. p. 1714 d.)... Jurejurando supplicii indulgentia promittitur.

[1] C. 2. (t. 6. p. 401 b.) Etenim sed et omne, quod animos amicorum conciliat, tunc fidelibus durat, cum eos sacramenti vincula ligant. Omne etiam, quod testis adstipulat, tunc verius constat, cum id adjectio jurationis affirmat. Quod si et testis deficiat, innocentis fidem sola jurisjurandi taxatio manifestat.

[2] Act. 13. (juxt. Ed. Crabb. t. 2. p. 378. ad calc. col. dextr.) Georgius... chartophylax juravit hoc modo: Per has sanctas Scripturas se Deum, qui per eas locutus est, &c.—Ap. Labb. (t. 6. p. 996. [corrige 966.] c.) Καὶ ἁψάμενος τῶν προκειμένων ἀχράντων τοῦ Θεοῦ λογίων Γεώργιος, ὁ θεοσεβέστατος διάκονος καὶ χαρτοφύλαξ, ὤμοσεν οὕτως· Μὰ τὰς ἁγίας Γραφὰς ταύτας, καὶ τὸν Θεὸν τὸν λαλήσαντα δι' αὐτῶν, κ.τ.λ.—Act. 14. ap. Crabb. (ibid. p. 382.) Per istas sanctas virtutes et Deum, qui locutus est pro eas, &c.—Ap. Labb. (ibid. p. 978 d.) Μὰ τὰς ἁγίας δυνάμεις ταύτας, καὶ τὸν Θεὸν τὸν λαλήσαντα δι' αὐτῶν, κ.τ.λ.

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speaks in them, concerning certain things, the truth of which he was to attest before the Council.

From all which it is evident, that the ancient Christians thought it a very lawful thing to ratify and confirm their faith by the formality of an oath, upon just and necessary occasions: and consequently, that there could be no rule to prohibit it, much less to make it a crime worthy of ecclesiastical censure.

But only the custom of vain and common swearing.

5. Neither was it every single act of vain and common swearing that brought a man under public discipline. For though every such act was esteemed a crime, yet it was not like the single act of apostasy or idolatry, or murder or adultery, but it must be a custom or habit of this vice, that made a man liable to the severity of excommunication. Tertullian[3] says expressly, 'that every rash and vain oath did not bring a man under the discipline of public penance, but was reckoned among the sins of daily incursion, for which private repentance was appointed.' And St. Chrysostom, who is most vehement and severe against this vice, does not threaten men with excommunication for every single act of it, but for obstinate continuance in the custom and practice of it after sufficient admonition. Having preached a whole Lent against swearing to the people of Antioch, he thus concludes his last discourse[4]: 'The forty days of Lent are already past; if Easter passes likewise without reforming this wicked custom, I will thenceforward pardon no man, nor use any longer admonition, but commanding authority and sharpness not to be despised. It is no just apology in this case to plead custom. For why may not the robber as well plead custom, and thereby excuse himself from punishment? and why may not the murderer and adulterer do the same? Therefore I protest and denounce beforehand, that if I apprehend any, who have not corrected this vice, I will inflict punishment upon them, and order them to be

[3] De Pudicit. c. 19. See before, ch. 3. s. 14. p. 183. n. 50.

[4] Hom. 22. [Bened. 20.] ad Pop. Antioch. t. 1. p. 294. (t. 2. p. 213 b.) *Τεσσαράκοντα λοιπὸν ἡμέραι παρῆλθον· ἂν τοίνυν τὸ Πάσχα παρέλθῃ τὸ ἱερὸν, οὐδενὶ συγγνώσομαι λοιπὸν, οὐδὲ παραίνεσιν προσάξω, ἀλλ' ἐπιταγὴν, καὶ ἀποτομίαν ἀκαταφρόνητον. Οὐδὲ γὰρ ἰσχυρὰ αὕτη ἡ ἀπολογία, ἡ διὰ τῆς συνηθείας. Διὰ τί ὁ κλέπτων οὐ προβάλλεται συνήθειαν, καὶ ἀπαλλάττεται κολάσεως; διὰ τί ὁ φονεύων καὶ μοιχεύων; Πᾶσι τοίνυν προλέγω καὶ διαμαρτύρομαι, ὅτι ἂν συγγενόμενος ὑμῖν κατ' ἰδίαν, καὶ λαβὼν ἀπόπειραν, λήψομαι δὲ πάντως, καὶ εὕρω τινὰς μὴ διορθώσαντας τὸ ἐλάττωμα, ἀπαιτήσω δίκην, κελεύσας ἔξω μένειν μυστηρίων τῶν ἱερῶν.*

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excluded from the participation of the holy mysteries.' So again, in another Homily[5] to the people of Antioch: 'For this sin we mourn and lament: but if I find any to persist in it, I will exclude them from entering the doors of the church and partaking of the heavenly mysteries. Nor let any one think to insult me by the help of his riches or power. Those things are no more to me than a mere fable, a shadow, or a dream. No rich man will be able to be my advocate, when I am accused before God's tribunal, that I did not with all my power and might assert and vindicate the laws of God by punishing the transgressors of them.'

And swearing by the creatures.

6. Another transgression of this command was swearing by the creatures. The fourth Council of Carthage[6] orders a clergyman, that was found guilty of this crime, to be first sharply reproved, and if he persist in his fault, to be excommunicated. St. Jerom[7] says, our Saviour prohibited it in those words, "Thou shalt not swear by heaven, nor by earth, nor Jerusalem, nor by thy head." [Matth. 5, 34—36.] And there goes a decree[8], under the name of Pope Pius I., which forbids men not only to swear by the hair, or head of God, or any other such blasphemous oaths, but by the creature, under the penalty of excommunication.

But because this may seem to contradict what they said before[9], 'that a man might lawfully swear by the emperor's safety;' we are to consider, that in such oaths they did not properly swear by the creatures, invoking them as witnesses of the truth of what they said, but only naming them with some relation to

[5] Hom. 22. in Matth. p. 182. (t. 7. p. 233 a.) *Διὸ καὶ ἡμεῖς θρηνοῦμεν καὶ ὀδυρόμεθα· κἂν ἐπιμένοντας ἴδω, ἀπαγορεύσω λοιπὸν ὑμῖν τῶν ἱερῶν τούτων ἐπιβῆναι προθύρων, καὶ [ὑμῖν] τῶν ἀθανάτων μετασχεῖν μυστηρίων. .... Μή μοί τις πλούσιος, μή μοί τις δυνάστης ἐνταῦθα φυσάτω, καὶ τὰς ὀφρῦς ἀνασπάτω· πάντά μοι ταῦτα μῦθος, καὶ σκιὰ, καὶ ὄναρ· Οὐδεὶς γὰρ τῶν νῦν πλουτούντων ἐκεῖ μου προστήσεται, ὅταν ἐγκαλοῦμαι καὶ κατηγοροῦμαι ὡς μὴ κατὰ* [al. *μετὰ*] *τῆς προσηκούσης σφοδρότητος τοὺς τοῦ Θεοῦ διεκδικήσας νόμους.*

[6] C. 61 (t. 2. p. 1205 a.) Clericum per creaturas jurantem, acerrime objurgandum. Si perstiterit in vitio, excommunicandum.

[7] In Matth. 5. (t. 7. p. 30 c.) ... Considera quod hic Salvator non per Deum jurare prohibuerit, sed per cœlum, et terram, et Hierosolymam, et per caput tuum.

[8] Ap. Gratian. caus. 22. quæst. 1. c. 10. (t. 1. p. 1245. 66.) Si quis per capillum Dei vel caput juraverit, vel alio modo blasphemia contra Deum usus fuerit; si ecclesiastico ordine est, deponatur; si laicus, anathematizetur. Et si quis per creaturam juraverit, acerrime castigetur, &c.

[9] See before, s. 4. p. 351, and nn. 79, 85, preceding.

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God, by whom they swore. Which, as learned men[8] observe, may lawfully be done two ways:—

1. In execratory oaths, when a man devotes any creature, in which he himself has some right and property, and as it were oppignorates it to the severe vengeance of God, the Judge, if he swear falsely. Thus a man may, in a serious matter, devote his head, his soul, his children, or any other thing belonging to him, if he knowingly forswear himself. Such examples of oaths we have in Scripture, which respect God always directly as witness and judge, and the creature only as something dear to us, which we are willing to pawn, to certify

[8] Vid. Rivet. in Decalog. p. 126. (t. 1. p. 1287. col. dextr.) Est species juramenti, in qua agnoscimus creaturæ nomen posse adhiberi sensu commodo, sine ulla Dei contumelia, et sine idololatriæ suspicione, idque duobus modis. 1. In juramento exsecratorio, cum quis creaturam ad se pertinentem quasi devovet, Deique judicis severæ ultioni velut oppignorat, nisi verum dicat. Sic potest aliquis in re seria, caput, animam, filios, et reliqua ad se pertinentia, quantum in ipso est, devovere, si sciens fallat. In talibus enim non jurat per eas res; sed tantum agnoscit coram Deo, se dignum esse, qui in illis puniatur, si pejeret. Talia in Scripturis habemus juramenti exempla, quæ Deum semper directe tanquam testem et judicem respiciunt; creaturam autem tanquam rem nobis caram, quam non dubitamus oppignorare, ut ex eo proximus certus sit, nos in perniciem propriam, aut rerum, quæ nobis sint in pretio, nolle fallere. Si jurat David, (Ps. 7, 3–5.) *Si feci istud, et si est iniquitas in manibus meis, persequatur inimicus animam meam.* Et Paulus, (2 ad Cor. 1, 23.) *Testem Deum invoco in animam meam.* Sic jurabant per caput suum, id est, illud devovebant. Unde illud apud Græcos, Νὴ τὴν κεφαλήν. Et apud Virgilium, (Æneid. 9.) *Per caput hoc juro:* hoc est, immineat capiti meo periculum, si sciens fallam. Hic modus usurpandæ creaturæ in re seria et vera licitus est, quia in eo non proprie consistit juramentum, sed ejus quædam appendix. 2. Alter modus est, cum quis earum rerum meminit in jurejurando, quæ quidem non sunt in ejus potestate constitutæ, ac proinde nec eas potest devovere; sed tales sunt, quarum apud eum ratio haberi in primis debet, inter res humanas; et quarum meminit, non ut eas testes veritatis advocet, aut illis deferat honorem juramenti, vel aliqua ex parte: sed ut per comparationem sui in eas res affectus, et debitæ civilis reverentiæ, testetur hominibus coram Deo, quam serio agat, cum loquitur. Sic jurabant veteres Christiani, Tertulliano teste, (Apol. c. 22.) *per salutem imperatoris,* qui per ejusdem genium jurare renuebant. Vel per salutem imperatoris intelligentes ipsum Deum, salutis auctorem, et qui salus imperatoris dici poterat effective; vel ut esset potius obtestatio, quam juramentum proprie dictum, per comparationem, hoc sensu; *Testor coram Deo, non mihi minus cordi esse in ea re veritatem, quam mihi cordi est imperatoris salus:* aut simile hujusmodi. Talia juramenta potius sunt obtestationes, de quibus Basilius ad Psalm. 14: *Sunt quidam sermones, speciem quidem juramenti habentes, qui tamen non sunt, sed obtestatio ad eos, qui audiunt.* Huc referri potest juramentum Josephi, Gen. 42, 15. *Vivit Pharao.* Ubi Vetus Interpres habet, *per salutem Pharaonis:* LXX. autem Νὴ τὴν ὑγίειαν Φαραώ, *per salutem* aut *sanitatem Pharaonis:* id est, *Quam mihi cordi est salus Pharaonis,* &c.

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our neighbour thereby, that we intend not to deceive him, to the destruction of ourselves, or any things that are highly valued by us. Thus David swears, (Psal. 7, 3–5.) "If I have done any such thing, O Lord my God, or if there be any wickedness in my hands, then let my enemy persecute my soul." So St. Paul, (2 Cor. 1, 23.) "I call God for a record upon my soul." And thus men were used to swear by their head, devoting it to a curse if they wittingly falsified. This way of using the name of a creature in an oath is reputed lawful; because this is not properly the oath, but only an appendix of it.

2. The other way of mentioning the creature in an oath, without swearing by them, is, when by a testification of the civil respect and affection they have for them, they likewise signify, in the presence of God, the truth of what they say to men, that it is as certainly true, as they certainly and undoubtedly wish the wealth and prosperity of such a creature or person. Thus Joseph, when he swore by God, mentioned the life of Pharaoh, (Gen. 42, 15.) which the Vulgar Latin renders, *per salutem Pharaonis*, from the Septuagint, *νὴ τὴν ὑγίειαν Φαραὼ, by the safety of Pharaoh:* which is the same form that, as we have seen before[9], the primitive Christians used, when they inserted the words *per salutem imperatoris* into their ordinary oaths, conceived in the name of God only. For neither of these is intended to swear by the creatures, but to testify, in the presence of God, that what they asserted was as certainly true as they wished the safety of Pharaoh, or the emperor, or as certainly as they were in health and in being. For such forms may be taken either by way of prayer, or of asseveration and protestation; where the protestation is plainly expressed, but that which is properly the oath in the name of God is covertly understood. And in this sense both the ancient Christians and Joseph are to be understood. For as St. Basil[10] observes, 'there are some modes of expression which seem to be oaths, but are not properly oaths, but only asseverations, to confirm the truth to men:' he instances in that

[9] See s. 4. p. 351.

[10] In Ps. 14. t. 1. p. 133. (t. 1. part. 2. p. 505 d.) *Εἰσὶ δέ τινες λόγοι, σχήματα μὲν ὅρκων ἔχοντες, οὐχ ὅρκοι δὲ ὄντες, ἀλλὰ θεραπεία πρὸς τοὺς ἀκούοντας.*

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of Joseph, who sware, *νὴ τὴν ὑγίειαν Φαραώ, by the safety of Pharaoh.*

And by the emperor's genius, and saints and angels.

7. But the case was otherwise when men swore directly by any creatures, as judges and revengers of their thoughts, if they were false and perfidious in their deposition. Therefore, though the Christians admitted the naming of the emperor's safety in their oaths, they would never swear by the emperor's genius, because this was idolatry, and in effect apostatizing to Heathenism, and renouncing the Christian religion. The persecutors required no more of them but this, as a testimony of their renunciation. In the Passion of Polycarp, recorded by Eusebius[11], the proconsul required him frequently to swear by the emperor's genius: to which he constantly replied, 'that he was a Christian.' So in the Acts of the Scillitan Martyrs[12] in Afric, the judge bids them 'only swear by the emperor's genius, and that should pass for an acknowledgment of the Gentile religion:' but they answered, 'We know nothing of the emperor's genius, but we worship and serve the God of heaven.' The like is said by Origen[13]; 'We swear not by the emperor's fortune or genius: for whether *fortune* be only a casual thing, as some repute it, we swear not by that as a god, which is nothing in the world, lest we should apply the power of an oath to that which we ought not; or whether fortune be one of the demons, as others say, we rather choose to die than swear by an impious and wicked devil.' The like is said by Minucius[14]; 'that it was peculiar to the Heathens to

[11] L. 4. c. 15. p. 131. (v. 1. p. 167. 23.) .... *Ὄμοσον τὴν Καίσαρος τυχήν.*

[12] Ap. Baron. an. 202. n. 2. (t. 2. p. 289 c.) Proconsul dixit .... Tantum jura per genium regis nostri. Speratus dixit, Ego imperatoris mundi genium nescio, sed cœlesti Deo meo servio.

[13] Cont. Cels. l. 8. p. 421. (t. 1. p. 790 e.) *Τύχην μέν τοι βασιλέως οὐκ ὄμνυμεν, ὡς οὐδ' ἄλλον νομιζόμενον Θεόν· εἴτε γὰρ, ὡς ὠνόμασάν τινες, ἐκφορὰ μόνον ἐστὶν ἡ τύχη.... Οὐκ ὄμνυμεν τὸ μηδαμῶς ὂν ὡς Θεὸν, ἢ ὅλως ὑφεστηκὸς καὶ δυνάμενόν τι ποιῆσαι, ἵνα μὴ τὴν ὁμοτικὴν δύναμιν εἰς ἃ μὴ δεῖ παραλαμβάνομεν· εἴτε καὶ, ὥς τισιν ἔδοξεν, εἰποῦσι τοῦ Ῥωμαίων βασιλέως τὸν δαίμονα ὀμνῦσιν οἱ τὴν τύχην αὐτοῦ ὀμνύοντες, δαιμόνων ἐστὶν ἡ ὀνομαζομένη τύχη τοῦ βασιλέως· καὶ οὕτως ἀποθανατέον ἐστὶ μᾶλλον ἡμῖν ἀπὸ τοῦ μὴ ὀμόσαι μοχθηρὰν δαίμονα καὶ ἄπιστον, πολλάκις συνεξαμαρτάνοντα ᾧ ἔλαχεν ἀνθρώπῳ, ἢ καὶ πλέον αὐτοῦ ἁμαρτάνοντα.*— [Conf. Exhort. ad Martyr. n. 7. (ibid. p. 278 d, e.) *Ἀλλὰ καὶ εἴπερ πᾶν ῥῆμα, κ. τ. λ.* Ed.]

[14] Octav. p. 88. (c. 29. p. 148.) .... Genium, id est, dæmonem ejus implorant; et est eis tutius per Jovis genium pejerare quam regis.

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swear by the emperor's genius, that is, his demon; and that it was safer to forswear themselves by the genius of Jupiter than the genius of the emperor.' Tertullian[15] says, 'Christians absolutely refused to swear by this form, though they scrupled not to swear by the emperor's safety. But the Heathen rebels were used to swear by the emperor's genius[16], at the same time that they were plotting treason against him:' which he frequently retorts upon them, because they were used to charge Christians as traitors[17], because they would not swear by the emperor's genius. The nature of this crime, then, we see, was plainly idolatry and apostasy, in giving divine honour to a demon instead of God, and thereby renouncing at once the Christian religion. Whatever penalties therefore were imposed on idolaters and apostates, the same we may conclude to have been the punishment of those who in times of persecution complied with the demands of the Heathen, to swear by the emperor's genius or demon, which was to give divine honour to creatures, and the worst of creatures, the apostate angels, who were in professed rebellion against God.

To swear by good angels, or saints, or the Virgin Mary, or their images and relics, though it had a more specious pretence, was not much short of the former vice. For, all divine worship being appropriated to God by the doctrine of the Ancients, and the taking of an oath being one solemn act of that worship, they were no more disposed to swear by an angel or a saint than by the emperor's genius, or any other thing that might reasonably be interpreted a conferring the honour of God upon the creature. Therefore Optatus[18] objects it to the

[15] Apol. c. 32. See before, s. 4. p. 351. n. 80.

[16] Ibid. c. 35. (p. 29 b.) Unde Cassii et Nigri et Albini? .... Omnes illi, sub ipsa usque impietatis eruptione, et sacra faciebant pro salute imperatoris, et genium ejus dejerabant.—Ad Scap. c. 2. (p. 69 b.) Sic et circa majestatem imperatoris infamamur; tamen nunquam Albiniani, nec Nigriani, vel Cassiani inveniri potuerunt Christiani: sed iidem ipsi, qui per genios eorum in pridie usque juraverant, qui pro salute eorum hostias et fecerant et voverant, qui Christianos sæpe damnaverant, hostes eorum sunt reperti.

[17] Ad Nationes, l. 1. c. 17. (p. 51 d.) Prima obstinatio est, quæ secunda ab eis religio constituitur Cæsarianæ majestatis, quod irreligiosi dicamur in Cæsares, neque imagines eorum repropitiando, neque genios dejerando, hostes populi nuncupamur.

[18] L. 3. p. 65. (p. 68.) Cum per solum Deum soleant homines jurare, passus est homines per se sic jurare, tanquam per Deum.

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Donatists, as a great piece of insolence and impiety, 'that whereas men ought to swear only by God alone, Donatus suffered those of his party to swear by himself as a God.' And his successors as greedily embraced this honour; for Optatus[19] charges the same impiety upon them all in general: 'The people swear by you, and are now commonly known to put your persons in the place of God. Men are used to name the name of God in oaths to confirm their faith or veracity: but while they swear by you, there is no mention of God or Christ among your party. If divine religion be transplanted from heaven to you, seeing men swear by your name, why do you not assume the power of preventing all diseases in yourselves, and those of your party? Let no one die: command the clouds: rain, if you can: that men may swear more perfectly by your name, and take no notice of God. *O sacrilegium impietati commixtum! O the sacrilege and impiety that concur together in your actions!* whilst you willingly hear men swear by your names, and let not the name of God be once mentioned in your ears!' He says further[20], 'that they were used to swear by their pretended martyrs, though they were men that suffered for their crimes, and not for the cause of religion;' by which it is evident, that in the time of Optatus, to swear by the name of a man, whether living or dead, was reckoned no less a crime than sacrilege and impiety, as transferring the honour of God upon the creature. And, consequently, the same punishment that was due to sacrilege and impiety must be supposed to be the punishment of this crime in all those that were guilty of it; though we read of few besides these heretics in those days that were disposed to run into it, till the worship of saints, and angels, and the Virgin Mary, began to creep into the Church; and then, together with that corruption, came in this other of

[19] L. 2. p. 58. (p. 53.) ... Per vos jurant, et personas vestras jam pro Deo habere noscuntur. Solet Deus ad probandam fidem in juratione ab hominibus nominari. Sed cum per vos juratur, jam apud vestros de Deo et Christo silentium est. Si ad vos divina migravit de cœlo religio, quia per vos juratur, nemo vestrum aut vestrorum langueat: nolite mori: imperate nubibus: pluite, si potestis: ut per vos plenius juretur, et de Deo sileatur. ... O sacrilegium impietati commixtum! dum homines per vos jurantes libenter auditis, et vocem Dei auribus non admittitis vestris.

[20] L. 3. p. 69. (p. 75.) .... Quos vos inter martyres ponitis, per quos, tanquam per unicam religionem, vestræ communionis homines jurant.

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joining the Virgin Mary, and the archangels Michael and Gabriel, in the same oath with God. The form of which sort of oaths we have in one of Justinian's Novels[21], which obliges every governor of a province to take an oath of allegiance, and an oath against bribery, or corrupt entrance into his office, in this form: 'I swear by God Almighty and his only begotten Son our Lord Jesus Christ, and the Holy Ghost, and the most holy glorious Mother of God and ever Virgin Mary, and by the four Gospels, which I hold in my hand, and by the holy archangels Michael and Gabriel, that I will keep a pure conscience, and pay faithful and true allegiance to their most sacred majesties Justinian and Theodora his consort, who put me into this office. And I swear by the same oath, that I neither gave, nor will give, nor promised to give, any thing to any one whatsoever for his patronage or assistance in procuring me this administration; but, as I received it without bribery, so I will execute it with purity, being content with the public salary that is appointed me.' The matter of this oath is exceeding good, but it must be confessed the form of it is a deviation from the purity and simplicity of former ages, when oaths were only made in the name of God, as a speciality of divine worship peculiarly belonging to him. This is the first instance I remember of any oath of this kind allowed in the Church: and it serves to show in how short a time corruptions may gain ground by authority; for that which was reputed sacrilege and impiety in the time of Optatus, was now become an instance of singular devotion to the archangels and the Virgin Mary.

[21] Novel. 8. c. 1. (t. 5. p. 9.) Jusjurandum quod præstatur ab his, qui administrationem accipiunt. Juro ergo [leg? ego] per Deum Omnipotentem, et Filium ejus Unigenitum, Dominum nostrum Jesum Christum, et Spiritum Sanctum, et per sanctam gloriosam Dei Genetricem et semper Virginem Mariam, et per Quatuor Evangelia, quæ in manibus meis teneo, et per sanctos archangelos Michaelem et Gabrielem, puram conscientiam, germanumque servitium me servaturum sacratissimis nostris dominis Justiniano et Theodoræ conjugi ejus, occasione traditæ mihi ab eorum pietate administrationis: et omnem laborem, ac sudorem cum favore sine dolo, et sine arte quacunque suscipio in commissa mihi ab eis administratione de eorum imperio atque republica, ... Juro quoque idem jusjurandum: quia nulli penitus neque dedi, neque dabo occasione dati mihi cinguli, neque occasione patrocinii, neque promisi;... sed, sicut sine suffragio præcepi cingulum, sic etiam pura me exhibebo circa subjectos, &c.

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There are many other things might be noted concerning oaths; but here I only speak of such things as relate to the discipline of the Church.

Of perjury and its punishment.

8. The next great crime that might be committed against the name and majesty of God was perjury; which might be committed either at the time of taking the oath, by swearing to a false thing, or swearing to do some wicked or unlawful thing; or else afterward, by not performing what a man lawfully might, when he was solemnly engaged upon oath to do it. He that swore to do an unlawful thing, as suppose to live in perpetual enmity with another man, and never be reconciled to him, was by the Council of Lerida[22] to be cast out of communion a whole year for his perjury, and obliged to repent of his unlawful oath, and be reconciled to his brother. For in this case, as the Fathers and Canons determine[23], the unlawful oath was not to be kept, lest it should involve him, like Herod, in a double or triple sin; but he was to rescind his oath, and repent of his perjury, which was better than to add one sin to another, under pretence of piety and religion. In this case the penance was so much the shorter, because men were supposed by some hasty passion to be involved rashly in this guilt, and not by any settled consideration.

But in other cases, perjury in attesting a false thing, or not performing a lawful oath, was more severely treated. For Chrysostom[24] reckons perjury in the same class with murder, fornication, and adultery. And St. Basil[25] imposes eleven years' penance upon those that were guilty of it: 'The per-

[22] C. 7. (t. 4. p. 1612 c.) Qui sacramento se obligaverit, ut litigans cum quolibet ad pacem nullo modo redeat, pro perjurio uno anno a communione corporis et sanguinis Dominici segregatus, reatum suum fletibus, eleemosynis, et quantis potuerit jejuniis absolvat [al. abluat].

[23] Vid. C. Tolet. 8. c. 2. (t. 6. pp. 399, seqq.) where the testimonies of St. Ambrose, St. Austin, Gregory, and Isidore, are cited at large to this purpose. As also in Gratian, caus. 22. quæst. 4. (t. 1. pp. 1263–1270.) *Quod autem illicita juramenta servari non debeant, &c.*

[24] Hom. 17. in Matth. p. 182. (t. 7. p. 229 e.) *Μοιχεία τοίνυν ἐνομίσθη νῦν τὸ τοιοῦτον, κ. τ. λ.* [Hom. 22. de Ira. t. 1. p. 294.) [juxt. Ed. Bened. ad Pop. Antioch. Hom. 20.] (t. 2. p. 211 d.) .... *Εἶδεν ὁ Θεὸς, ὅτι ἀπέστησαν ἕκαστος ἀπὸ τῶν ὁδῶν αὐτῶν τῶν πονηρῶν· οὐκ εἶπεν, ὅτι ἀπὸ πορνείας, ἢ μοιχείας, ἢ κλοπῆς, ἀλλ' ὅτι ἀπὸ τῶν ὁδῶν αὐτῶν τῶν πονηρῶν, κ. τ. λ.* Ed.]

[25] C. 64. (CC. t. 2. p. 1349 e.) *Ἐπίορκος ἐν δέκα ἔτεσιν ἀκοινώνητος ἔσται· δυσὶν ἔτεσι προσκλαίων, τρισὶν ἀκροώμενος, τέσσαρσιν ὑποπίπτων, ἐνιαυτὸν συνεστὼς μόνον, καὶ τότε τῆς κοινωνίας ἀξιούμενος.*

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jured person shall be a mourner two years, an hearer three, a prostrator four, a co-stander one.' The first Council of Mascon[26] orders those that drew others into false witness or perjury, 'to be cast out of communion to the hour of death;' and those that were so drawn in, 'to be for ever after incapable of giving testimony, and to be noted as infamous persons according to the laws:' meaning probably the laws of the State, as well as the laws of the Church. For, as Gothofred shows at large, the civil law under the old Romans set the brand of infamy upon all such perjured persons; and Honorius added several other penalties to give new vigour to the ancient laws[27], and make them more effectual.

I cannot here omit the relation which Eusebius[28] gives of the divine vengeance pursuing three perjured villains, who combined together to swear to a false accusation, which they had plotted beforehand against Narcissus bishop of Jerusalem; because it shows that when church-discipline cannot take effect for want of evidence against the criminal, Providence is sometimes pleased to interpose, and revenge this crime by an immediate divine judgment. 'Three men,' he says, 'who were afraid to be called in question by the bishop, and punished for their wicked lives, resolved to be beforehand with him, by contriving and bringing an heavy accusation against him. And to

[26] C. 17. (t. 5. p. 970 d.) Si quis convictus fuerit alios ad falsum testimonium vel perjurium attraxisse .... ipse quidem usque ad exitum non communicet: hi vero, qui ei in perjurio consensisse probantur, post ab omni sunt testimonio prohibendi, et secundum legem infamia notabuntur.

[27] Vid. Cod. Theod. l. 2. tit. 9. de Pactis, leg. 8. (t. 1. p. 133.) Si quis major annis adversus pacta vel transactiones, nullo cogentis imperio, sed libero arbitrio et voluntate confecta, putaverit esse veniendum, vel interpellando judicem, vel supplicando principibus, vel non implendo promissa ea, quæ, invocato nomine Dei Omnipotentis, eo auctore solidaverit; non solum inuratur infamia, verum etiam actione privatus, restituta pœna, quæ pactis probatur inserta, earum rerum et proprietate careat et emolumento, quod ex pacto vel transactione illa fuerit consecutus. Quæ omnia mox eorum commodo deputabuntur, qui intemerati pacti jura servaverint.—Vid. Gothofred. in loc. (pp. 134–137.) De perjurii pœnis, &c.

[28] Lib. 6. c. 9. (v. 1. p. 267. 4.) Τὸ εὔτονον αὐτοῦ καὶ στερρὸν τοῦ βίου φαυλοί τινες ἀνθρωπίσκοι μὴ οἷοί τε φέρειν, δέει τοῦ μὴ δίκην ὑποσχεῖν ἁλόντας, διὰ τὸ μυρία κακὰ ἑαυτοῖς συνειδέναι, συσκευὴν κατ' αὐτοῦ προλαβόντες συρράπτουσι, καί τινα δεινὴν καταχέουσιν αὐτοῦ διαβολήν· εἶτα, πιστούμενοι τοὺς ἀκροωμένους, ὅρκοις ἐβεβαίουν τὰς κατηγορίας· καὶ ὁ μὲν ἢ μὴν ἀπόλοιτο πυρὶ ὤμνυεν· ὁ δὲ ἢ μὴν σκαιᾷ νόσῳ δαπανηθείη τὸ σῶμα· ὁ δὲ τρίτος ἢ μὴν τὰς ὁράσεις πηρωθείη. Ἀλλ' οὐδ' οὕτως αὐτοῖς καίπερ ὀμνύουσι τῶν πιστῶν τις προσείχε τὸν νοῦν, διὰ τὴν εἰς πάντας λάμπουσαν ἐκ τοῦ παντὸς σωφροσύνην τε καὶ πανάρετον

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gain credit to their accusation before the Church they each confirmed it with a solemn oath. One of them wished that if he swore falsely he might perish by fire; another, that his body might be consumed by some pestilential disease; and the third, that he might lose his eyes. The Church gave no credit to their oaths, as knowing the bishop to be of a clear and unblameable life: however, being not able to bear the calumny, and being otherwise of a long time desirous of a retired life, he thereupon withdrew into the wilderness, leaving his church, to live the life of an hermit. But the great eye of justice did not thus suffer the matter to rest, but presently revenged the miscreants with the curses they had imprecated upon themselves. For the first by a little spark of fire that casually happened in his house, and whereof no one could give any account, was in the night himself, family, and house, universally burnt to ashes; the second was from the sole of the foot to the crown of his head overrun and consumed by the same pestilential disease, which he had wished upon himself; and the third, seeing what had befallen the other two, and fearing the inevitable vengeance of the all-seeing God, confessed the whole plot and contrivance of the calumny which they had formed; and he testified his repentance with so deep a sorrow, that with the multitude of his tears he lost his sight. Thus these perjured wretches were punished by the hand of God, when ecclesiastical censure, for want of evidence, could not touch them.'

Of breach of vows.

9. The last transgression of this commandment, that was punished with ecclesiastical censure, was breach of vows, or promises solemnly made to God: and this was both in things and persons.

ἀγωγὴν τοῦ Ναρκίσσου. Αὐτός γε μὴν τὴν τῶν εἰρημένων μηδαμῶς ὑπομένων μοχθηρίαν, καὶ ἄλλως ἐκ μακροῦ τὸν φιλόσοφον ἀσπαζόμενος βίον, διαδρὰς πᾶν τὸ τῆς ἐκκλησίας πλῆθος, ἐν ἐρημίαις καὶ ἀφανέσιν ἀγροῖς λανθάνων, πλείστοις ἔτεσι διέτριβεν. Ἀλλ' οὐ καὶ ὁ τῆς δίκης μέγας ὀφθαλμὸς ἐπὶ τοῖς πεπραγμένοις ἠρέμει· μετῄει δὲ ὡς τάχιστα τοὺς ἀσεβεῖς, αἷς καθ' ἑαυτῶν ἐπιορκοῦντες κατεδήσαντο ἀραῖς. Ὁ μὲν οὖν πρῶτος, ἐκ μηδεμίας προφάσεως ἁπλῶς οὕτω σμικροῦ διαπεσόντος ἐφ' ἧς κατέμενεν οἰκίας σπινθῆρος, νύκτωρ ὑπαφθείσης ἁπάσης παγγενῆ καταφλέγεται· ὁ δὲ ἀθρόως τὸ σῶμα ἐξ ἄκρων ποδῶν ἐπὶ κεφαλὴν, ἧς αὐτὸς προσετίμησεν ἑαυτῷ νόσου πίμπλαται· ὁ δὲ τρίτος τὰς τῶν προτέρων συνιδὼν ἐκβάσεις, καὶ τοῦ πάντων ἐφόρου Θεοῦ τρέσας τὴν ἀδιάδραστον δίκην, ὡμολόγει μὲν τοῖς πᾶσι τὰ κοινῇ σφίσιν αὐτοῖς ἐσκαιωρημένα· τοσαύταις δὲ κατετρύχετο μεταμελόμενος οἰμωγαῖς, δακρύων τε ἐς τοσοῦτον οὐκ ἀπέλιπεν, ἕως ἄμφω διεφθάρη τὰς ὄψεις.

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If a man vowed to give his estate, or any part of it, to the service of God, it was a breach of vow, including sacrilege, to retract it. Ananias was severely censured for this in such an extraordinary way by the apostolical rod and mouth of St. Peter, as in St. Basil's[29] judgment left him no room for repentance. The Church in after-ages could not punish such delinquents in that extraordinary manner: but as every such breach of vow was a piece of sacrilege, as well as perfidiousness and perjury, we may be sure the common penalties, that were inflicted on those two crimes singly, were no less carefully imposed on this crime, where they centred both in combination.

There was also a breach of vow which concerned the dedication of persons to God. The clergy were supposed to be more peculiarly God's inheritance, dedicating themselves by a solemn act of their own voluntary choice to the ministry of his Church: and therefore none of this order were allowed to desert their station and turn seculars again, upon the severest penalty of excommunication. As appears from the rules of the general Council of Chalcedon[30], and the Council of Tours[31]: which the laws of the State confirmed by proper sanctions of a civil nature[32], ordering all such deserters to be delivered up to the *curia* of their city, to serve there all their lives; and to forfeit all such estates as they were possessed of to the Church or monastery to which they belonged. For the same penalties were inflicted on monks and consecrated virgins and

[29] Hom. de Institut. Monach. [al. Sermo Asceticus, inter Moralia.] (t. 2. part. 1. p. 446 c. n. 2.) *Ἐξῆν γὰρ τῷ Ἀνανίᾳ τὴν ἀρχὴν μὴ ἐπαγγείλασθαι τῷ Θεῷ τὴν κτῆσιν· ἀλλ' ἐπειδὴ πρὸς τὴν ἀνθρωπίνην ἀπιδὼν δόξαν, τὸ μὲν κτῆμα διὰ τῆς ἐπαγγελίας τῷ Θεῷ ἀφιέρωσεν, ὡς ἂν θαυμασθείη παρὰ τῶν ἀνθρώπων ἐπὶ τῇ φιλοτιμίᾳ, τοῦ τιμήματος δὲ ἐνοσφίσατο, τοιαύτην ἐκίνησε καθ' ἑαυτοῦ τοῦ Κυρίου τὴν ἀγανάκτησιν, ἧς ὑπηρέτης ὁ Πέτρος ἦν, ὡς μηδὲ μετανοίας προθεσμίαν* [al. *θύραν*] *εὑρεῖν.*

[30] C. 7. (t. 4. p. 759 a.) *Τοὺς ἅπαξ ἐν κλήρῳ κατειλεγμένους, ἢ καὶ μονάζοντας, ὡρίσαμεν, μήτε ἐπὶ στρατείαν, μήτε ἐπὶ ἀξίαν κοσμικὴν ἔρχεσθαι· ἢ τοῦτο τολμῶντας, καὶ μὴ μεταμελουμένους, ὥστε ἐπιστρέψαι ἐπὶ τοῦτο, ὃ διὰ Θεὸν πρότερον εἵλοντο, ἀναθεματίζεσθαι.*

[31] C. 5. (ibid. p. 1051 d.) Si quis vero clericus, relicto officii sui ordine, laicam voluerit agere vitam, vel se militiæ tradiderit, excommunicationis pœna feriatur.

[32] Cod. Theod. l. 16. tit. 2. de Episc. leg. 39. (t. 6. p. 78.) .... Si qui professum sacræ religionis sponte deliquerit, continuo sibi cum curia vindicet.—Cod. Justin. lib. 1. tit. 3. de Episc. leg. 54. (t. 4. p. 140.) Of which see more, b. 6. ch. 4. s. 1. v. 2. p. 261.

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widows, who by any solemn vow had bid adieu to the world and had betaken themselves to the ascetic life. If after this they married and returned to a secular life, though the Church did not annul their marriage under the notion of being adulterous, which is now commonly done in the Romish communion, yet she imposed a certain penance upon them, as guilty of perfidiousness and breach of vow. The Council of Chalcedon[33] orders both monks and virgins to be excommunicated, if they married after their solemn consecration and profession. St. Basil[34] says, they were to do the penance of fornicators and adulterers. Not that he reckoned their marriage fornication or adultery, but only to assign the term of their penance. For as we have shown elsewhere[35], out of St. Austin[36], such marriages were never reputed adultery, but true marriages, and therefore not annulled by any rule of the ancient Church, though now by the authority of the Council of Trent the contrary practice prevails in the Romish Church, where all such marriages are reversed, and the parties obliged to separate from one another.

[33] C. 16. (t. 4. p. 763 b.) Παρθένον ἑαυτὴν ἀναθεῖσαν τῷ Δεσπότῃ Θεῷ, ὡσαύτως δὲ καὶ μονάζοντα, μὴ ἐξεῖναι γάμῳ προσομιλεῖν· εἰ δέ γε εὑρεθεῖεν τοῦτο ποιοῦντες, ἔστωσαν ἀκοινώνητοι.—C. Tolet. 4. c. 51. (t. 5. p. 1718 a.) Nonnulli monachorum, egredientes a monasterio, non solum ad sæculum revertuntur, sed etiam uxores accipiunt. Hi igitur revocati, in eodem monasterio, a quo exierunt, pœnitentiæ deputentur, ibique defleant crimina sua, unde decesserunt.—Leo, Ep. 92. ad Rustic. c. 12. (CC. t. 3. p. 1407 e.) Contrarium est omnino ecclesiasticis regulis, post pœnitentiæ actionem redire ad militiam sæcularem, cum Apostolus dicat: *Nemo militans Deo implicet se negotiis sæcularibus.* Unde non est liber a laqueis Diaboli, qui se militia mundana voluerit implicare.—C. Ancyr. c. 19. (t. 1. p. 1464 b.) Ὅσοι παρθενίαν ἐπαγγελλόμενοι ἀθετοῦσι τὴν ἐπαγγελίαν, τὸν τῶν διγάμων ὅρον ἐκπληροῦτωσαν.

[34] Ep. Canonic. c. 60. [ap. Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1349 [corrige, 1749] b.) Ἡ παρθενίαν [al. παρθένος] ὁμολογήσασα, καὶ ἐκπεσοῦσα τῆς ἐπαγγελίας, τὸν χρόνον τοῦ ἐπὶ τῆς μοιχείας ἁμαρτήματος ἐν τῇ οἰκονομίᾳ τῆς καθ' ἑαυτὴν ζωῆς πληρώσει· τὸ αὐτὸ καὶ ἐπὶ τῶν βίον μονάζοντα ἐπαγγελλομένων καὶ ἐκπιπτόντων.

[35] B. 7. ch. 3. s. 23. v. 2. p. 394.

[36] De Bono Viduitat. c. 10. (t. 6. p. 375 f.) Proinde qui dicunt talium nuptias, sed potius adulteria, non mihi videntur satis acute ac diligenter considerare, quid dicant: fallit eos quippe similitudo veritatis, &c.

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CHAP. VIII.

Of sins against the Fourth Commandment, or violations of the law enjoining the religious observation of the Lord's-day.

1. SOMETHING has already been noted concerning the religious observation of the Lord's-day in a former Book [38], and more will be said hereafter, when we come to speak of the festivals, of which this was always reckoned the principal in the Christian Church. Here therefore our present subject only requires us to remark such violations of the law enjoining the religious observation of the Lord's-day, as made men liable to ecclesiastical censure.

Absenting from religious assemblies on the Lord's-day, how punished by the laws of the Church.

And, first, it being a rule that men should meet together to celebrate all divine offices in public on the Lord's-day, the voluntary absenting from this service, either in whole or in part, was ever reputed a crime worthy of ecclesiastical censure. To absent wholly, as heretics and schismatics did, by a chosen separation, though they met in private conventicles of their own, was esteemed such a violation of the law, as the Church thought fit to punish with the severest censure of *anathema:* as appears from several canons of the Council of Gangra [39], which having been related at length before [40], I need not here repeat them.

Secondly, if men, who were otherwise orthodox, neglected for any considerable time to frequent the church on the Lord's-day, this was a misdemeanour deserving to be corrected by a judicial suspension from the communion. This may be seen in the canons of the Councils of Eliberis [41], Sardica [42], and Trullo [43], which for the same reason I forbear to recite.

2. Thirdly, to frequent some part of divine service on the Lord's-day, and neglect or withdraw from the rest, was in those days a crime of a very high nature, and punishable with excommunication. This is evident from those called the Apo-

Of frequenting some part of the Lord's-day service, and

[38] B. 13. ch. 9. s. 1. v. 4. p. 523.
[39] CC. 5, 6, 7, &c. (t. 2. p. 419 a, b.) Εἴ τις διδάσκοι, κ. τ. λ.
[40] Ch. 1. s. 5, of this Book, p. 19. nn. 37, seqq.
[41] C. 21. See ibid. p. 21. n. 48.
[42] C. 11. See ibid. n. 49.
[43] C. 80. See ibid. n. 50.

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neglecting the rest.

stolical Canons, one[44] of which orders, 'that all communicants who came to church to hear the sermon and the Scriptures read, but did not stay to join in the prayers and receive the eucharist, should be suspended, as authors of confusion and disorder in the church.' The same is decreed in the Council of Antioch[45] in the same terms, and under the same penalty. The Council of Eliberis[46] forbids the bishop to receive the oblations of such as did not communicate. Which was in effect to exclude them from the communion of the Church. And the first Council of Toledo[47] orders 'such as come to church, but neglect to frequent the communion, to be admonished; and if upon admonition they amend not, then to put them under public penance as great offenders.' And another canon[48] of the same Council adds, 'that if any present themselves to the communion, and take the eucharist at the hands of the priest, and yet forbear to eat it, they shall be driven out of the church as sacrilegious persons.'

All these canons suppose, what we have fully evinced in a former Book[49], that the celebration of the eucharist was a standing part of divine service every Lord's-day; and that every Christian communicant, who was not under penance, was obliged to partake thereof, to fulfil the duty he owed to God upon this day: and therefore all such as neglected this part of divine worship were to be censured as transgressors, for contemning one principal part of the religious observation of the Lord's-day. I cannot write this without lamenting the hard fate of many pious persons in the present age, whose disposition would incline them to be constant communicants every Lord's-day, but they want opportunity in the present posture of affairs to execute their good designs. Such must content

[44] C. 10. [Labb. 9.] (Cotel. [c. 7.] v. 1. p. 438.) *Πάντας τοὺς εἰσιόντας πιστοὺς εἰς τὴν ἁγίαν τοῦ Θεοῦ ἐκκλησίαν, καὶ τῶν ἱερῶν Γραφῶν ἀκούοντας, μὴ παραμένοντας δὲ τῇ προσευχῇ καὶ τῇ ἁγίᾳ μεταλήψει, ὡς ἂν ἀταξίαν ἐμποιοῦντας τῇ ἐκκλησίᾳ, ἀφορίζεσθαι χρή.*

[45] C. 2. See before, b. 15. ch. 4. s. 1. v. 5. p. 352. n. 37.

[46] C. 28. (t. 1. p. 973 e.) Episcopos placuit ab eo, qui non communicat, munera accipere non debere.

[47] C. 13. (t. 2. p. 1225 d.) De his, qui intrant in ecclesiam, et deprehenduntur nunquam communicare, admoneantur. Quod si non communicant, ad pœnitentiam accedant.

[48] C. 14. (ibid. d.) Si quis autem acceptam a sacerdote eucharistiam non sumpserit, velut sacrilegus propellatur.

[49] B. 15. ch. 9. s. 1. v. 5. p. 536.

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themselves with that of the Apostle, [2 Cor. 8, 12.] "If there be first a willing mind, it is accepted according to that a man hath, and not according to that he hath not;" and in the mean time pray to God to find out a method in his good providence to restore the ancient discipline and primitive fervour. But I proceed.

Fasting on the Lord's-day prohibited under pain of excommunication.

3. It was an ancient and general custom in the primitive Church to keep the Lord's-day as a festival and day of rejoicing, in memory of our Saviour's resurrection; and never to fast on that day, no not even in the time of Lent. And therefore to fast perversely on this day was always reputed a crime deserving ecclesiastical censure. Tertullian[50] says, 'they counted it a crime to fast on the Lord's-day.' And he remarks[51], 'that even the Montanists, who were the most rigid in observing their times of fasting, omitted both Saturday and Sunday throughout the year. For though they observed three Lents, and two weeks of *xerophagia* or *dry meats* besides, yet they excepted the Sabbath or Saturday and the Lord's-day from these laws of fasting.' St. Ambrose[52] likewise tells us, 'that the Catholics were used to except these two days in their Lent fasts. They never fasted on the Lord's-day, but thought they had reason to condemn the Manichees for so doing[53]: for to appoint that day to be a fast-day, was in effect to disbelieve the resurrection of Christ.' Several other heretics besides the Manichees were condemned for this practice by the first Council of Braga[54]: they particularly name the Cerdonians, Marcionites, and Priscillianists, whom they anathematize upon this account, as fasting on the day of Christ's

[50] De Cor. Mil. c. 3. (p. 102 a.) Die Dominico jejunium nefas ducimus.

[51] De Jejun. advers. Psychicos, c. 15. (p. 552 c.) .... Duas in anno hebdomadas xerophagiarum, nec totas, exceptis scilicet Sabbatis et Dominicis, offerimus Deo.

[52] De Elia et Jejunio, c. 10. (t. 1. p. 543 b. n. 34.) Quadragesimæ totis, præter Sabbatum et Dominicam, jejunatur diebus.

[53] Ep. 83. [al. 2.] de Pasch. Celebrand. Ration. (t. 2. p. 883 c. n. 11.) Dominica autem jejunare non possumus, quia Manichæos etiam ob istius diei jejunia jure damnamus. Hoc enim est in resurrectionem Christi non credere, si quis legem jejunii die resurrectionis indicat.

[54] C. 1. [al. Bracar. 2.] c. 4. (t. 5. p. 837 e.) Si quis natale Christi secundum carnem non vere honoret, sed honorare se simulat, jejunans in eodem die et in Dominico; quia Christum in vera hominis natura esse [al. natum esse] non credit, sicut Cerdon, Marcion, Manichæus, et Priscillianus, anathema sit.

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nativity, and the Lord's-day, because they did this in derogation to the truth of Christ's human nature. Pope Leo [55] notes the Priscillianists upon the same account; and the fourth Council of Carthage [56] censures them as no Catholics, who choose to fast upon this day. St. Austin [57] not only says, that it was the custom of the whole Catholic Church to abstain from fasting on this day, but [58] that no one could do otherwise without giving great scandal to the Church, because the impious Manichees had chosen this day particularly to fast upon in opposition to the Church. Upon these grounds and reasons the canons are very severe in their censures of such transgressors. 'If any one fast on the Lord's-day,' says the Council of Gangra [59], 'though it be under pretence of leading an ascetic life, let him be *anathema.*' In like manner the Apostolical Canons [60]: 'If any clergyman fast on the Lord's-day or on the Sabbath, one only excepted, viz. the Sabbath before Easter, let him be deposed. If he be a layman, let him be

[55] Ep. 93. ad Turibium, c. 4. (CC. t. 3. p. 1412 b.) Quarto capitulo continetur, quod natalem Christi, quem secundum susceptionem veri hominis Catholica ecclesia veneratur, quia *Verbum caro factum est et habitavit in nobis,* non vere isti honorent, sed honorare se simulent, jejunantes eodem die, sicut et die Dominico, qui est dies resurrectionis Christi. Quod utique ideo faciunt, quia Christum Dominum in vera hominis natura natum esse non credunt, sed per quandam illusionem ostenta videri volunt, quæ vera non fuerint; sequentes dogmata Cerdonis atque Marcionis, et cognatis suis Manichæis per omnia concordantes [al. consonantes]. Qui, sicut in nostro examine detecti atque convicti sunt, Dominicum diem, quem nobis Salvatoris nostri resurrectio consecravit, exigunt in mœrore jejunii; Solis, ut proditum est, reverentiæ hanc continentiam devoventes; ut per omnia sint a nostræ fidei unitate discordes; et dies, qui a nobis in lætitia habetur, ab illis in afflictione ducatur. Unde dignum est, ut inimici crucis et resurrectionis Christi talem excipiant sententiam, qualem elegerunt doctrinam.

[56] C. 64. (t. 2. p. 1205 b.) Qui Dominico die studiose jejunat, non credatur Catholicus.

[57] Ep. 119. [al. 55.] ad Januar. c. 15. (t. 2. p. 139 e.) Propter hoc et jejunia relaxantur, et stantes oramus, quod est signum resurrectionis, unde etiam omnibus diebus Dominicis id ad altare observatur, et halleluia canitur, etc.

[58] Ep. 86. [al. 36.] ad Casulan. c. 12. (t. 2. p. 78 f.) Die autem Dominico jejunare scandalum est magnum, maxime posteaquam innotuit detestabilis multumque fidei Catholicæ Scripturisque divinis apertissime contraria hæresis Manichæorum, qui suis auditoribus ad jejunandum istum tanquam constituerunt legitimum diem, per quod factum est, ut jejunium diei Dominici horribilius haberetur.

[59] C. 18. (t. 2. p. 424 b.) Εἴ τις διὰ νομιζομένην ἄσκησιν ἐν τῇ Κυριακῇ νηστεύοι, ἀνάθεμα ἔστω.

[60] C. 64. [al. 65.] (Cotel. [c. 56.] v. 1. p. 446.) Εἴ τις κληρικὸς εὑρεθῇ τὴν Κυριακὴν ἡμέραν ἢ τὸ Σάββατον, πλὴν τοῦ ἑνὸς μόνου, νηστεύων, καθαιρείσθω· ἐὰν δὲ λαϊκὸς ᾖ, ἀφοριζέσθω.

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cast out of the communion of the Church.' And this is repeated in the Council of Trullo[61], and other rules[62] of the ancient Church.

Frequenting the theatre and other shows and pastimes on this day, how punished.

4. There were many other rules made by the Ancients for the decent observation of the Lord's-day: as, that men should abstain from all unnecessary bodily labour; that all law-suits and pleadings and prosecutions should cease upon this day; that divine service should be performed standing, in memory of our Saviour's resurrection: but as the transgressions of these rules are not usually mentioned with the same commination of ecclesiastical punishments, the consideration of them belongs not to this head, but shall be reserved for its proper place, under the title of *Festivals*, [in sections 2—6 of the second chapter of the twentieth Book,] where the observation of the Lord's-day will come again more particularly to be considered. But there is one thing more that must not here be omitted: which is, that when men neglected the public service of God, to follow vain sports and pastimes on this day, this was thought a crime worthy to be corrected by the severest censures of the Church. The imperial laws forbad all public games and shows on this day. Theodosius the Great speaks of two laws[63] made by himself to this purpose. And Theodosius Junior made another[64], wherein he not only forbids the exhibiting of the

[61] C. 55. (t. 6. p. 1167 c.) Ἐπειδὴ μεμαθήκαμεν ἐν τῇ Ῥωμαίων πόλει ἐν ταῖς Τεσσαρακοστῆς νηστείαις τοῖς ταύτης Σάββασι νηστεύειν παρὰ τὴν παραδοθεῖσαν ἐκκλησιαστικὴν ἀκολουθίαν, ἔδοξε τῇ ἁγίᾳ συνόδῳ, ὥστε κρατεῖν καὶ ἐπὶ τῇ Ῥωμαίων ἐκκλησίᾳ ἀπαρασαλεύτως τὸν κανόνα τὸν λέγοντα, Εἴ τις κληρικὸς, κ. τ. λ.

[62] C. Cæsar-August. c. 2. (t. 2. p. 1009 e.) Ne quis jejunet die Dominica, causa temporis [al. timoris] aut persuasionis, aut superstitionis, etc.

[63] Cod. Theod. l. 15. tit. 5. de Spectaculis, leg. 2. (t. 5. p. 350.) Illud etiam præmonemus, ne quis in legem nostram, quam dudum tulimus, committat: nullus Solis die populo spectaculum præbeat, nec divinam venerationem confecta solemnitate confundat.

[64] Ibid. leg. 5. (p. 353.) Dominico, (qui septimanæ totius primus est dies,) et Natale, atque Epiphaniorum Christi, Paschæ etiam et Quinquagesimæ diebus, ... omni theatrorum atque circensium voluptate populis denegata, totæ Christianorum ac fidelium mentes cultibus Dei occupantur, &c.—Vid. Cod. Justin. lib. 3. tit. 12. de Feriis, leg. 11. (t. 4. p. 609.) Dies festos Majestati altissimæ dedicatos nullis volumus voluptatibus occupari, nec ullis exactionum vexationibus profanari. Dominicum itaque diem ita semper honorabilem decernimus, et venerandum, ut a cunctis exsecutionibus excusetur: nulla quenquam urgeat admonitio: nulla fidejussionis flagitetur exactio: taceat apparitio: advocatio delitescat: sit ille dies a cognitionibus alienus: præconis horrida vox silescat: respirent a controversiis litigantes, et

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shows on the Lord's-day, but on the other great festivals, the Nativity, Epiphany, Easter, and Pentecost. But no penalties being annexed to these laws, there was still occasion for the laws of the Church to restrain men by ecclesiastical censures. And therefore the canons made this crime to be noted as an heinous offence, and punished the transgressors with excommunication. 'If any one on a solemn day,' says the fourth Council of Carthage[65], 'leave the solemn assembly of the church to go to the shows, let him be excommunicated.' And another canon[66] excommunicates those who leave the church whilst the bishop is preaching. The fifth Council of Carthage[67], as it is related in the African Code, petitioned the emperor Honorius to forbid all theatrical shows on the Lord's-day and all the great festivals. St. Chrysostom[68] calls them *Σατανικὰ συνέδρια, the conventions of Satan,* and tells his auditory, 'he would no longer use gentle remedies, but styptics and caustics, to put a stop to the raging distemper. They that continued in this crime after this formal admonition, should be no longer endured, but feel the weight of the ecclesiastical laws, and learn thereby not to contemn the divine oracles.'

habeant fœderis intervallum: ad sese simul veniant adversarii non timentes, subeat animos vicaria pœnitudo, pacta conferant, transactiones loquantur. Nec hujus tamen religiosi diei otia relaxantes obscœnis quenquam patimur voluptatibus detineri. Nihil eodem die sibi vindicet scena theatralis, aut circense certamen, aut ferarum lacrymosa spectacula: et si in nostrum ortum, aut natalem celebranda solemnitas inciderit, differatur. Amissionem militiæ, proscriptionemque patrimonii sustinebit, si quis unquam hoc die festo spectaculis interesse, vel cujuscunque judicis apparitor prætextu negotii publici, seu privati, hæc, quæ hac lege statuta sunt, crediderit temeranda.

[65] C. 88. (t. 2. p. 1206 e.) Qui die solemni, prætermisso solemni ecclesiæ conventu, ad spectacula vadit, excommunicetur.

[66] C. 24. (ibid. p. 1202 a.) Sacerdote verbum faciente in ecclesia, qui de auditorio egressus fuerit, excommunicetur.

[67] Cod. Afric. c. 61. (ibid. p. 1086 e.) *Κἀκεῖνο ἔτι μὴν δεῖ αἰτῆσαι, ἵνα τὰ θεώρια τῶν θεατρικῶν παιγνίων ἐν τῇ Κυριακῇ καὶ ἐν ταῖς λοιπαῖς φαιδραῖς τῆς τῶν Χριστιανῶν πίστεως κωλύωνται.*

[68] Hom. 6. in Gen. t. 2. p. 53. (t. 4. p. 42 c.) *Ἀλλ' ὅπως μὴ πάλιν τοῖς αὐτοῖς περιπέσητε, μηδὲ μετὰ τὴν τοσαύτην ἡμῶν παραίνεσιν πάλιν ἐπὶ τὰ Σατανικὰ συνέδρια ἐκεῖνα δράμητε, ἀναγκαῖον διαμαρτύρασθαι· οὐδὲ γὰρ πάντοτε καλὸν προσηνῆ φάρμακα ἐπιτιθέναι, ἀλλ' ὅταν ᾖ τὸ ἕλκος δυσένδοτον, δεῖ καὶ τὰ στύφοντα καὶ τὰ δάκνειν δυνάμενα προσάγειν, ἵνα ταχεῖα γένηται ἡ διόρθωσις. Μαθέτωσαν τοίνυν ἅπαντες, οἱ τοῖς ἐγκλήμασιν ὑπεύθυνοι, ὅτι εἰ καὶ μετὰ ταύτην ἡμῶν [τὴν] παραίνεσιν πάλιν τῇ αὐτῇ ῥαθυμίᾳ ἐπιμένωσιν, οὐκ ἀνεξόμεθα, ἀλλὰ τοῖς νόμοις τῆς ἐκκλησίας χρησάμενοι μετὰ πολλῆς αὐτοὺς τῆς σφοδρότητος διδάξομεν μὴ τοιαῦτα πλημμελεῖν, μηδὲ μετὰ τοσαύτης καταφρονήσεως τῶν θείων ἀκούειν λογίων.*

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By which it is evident, that though the games and pastimes of the circus and the theatre were still allowed under the Christian emperors, yet they were precisely forbidden on the Lord's-day: and to frequent them at that time was one of those great transgressions for which men felt the heaviest censures of the Church.

CHAP. IX.

Of great transgressions against the Fifth Commandment, disobedience to parents and masters; treason and rebellion against princes; and contempt of the laws of the Church.

Children not to desert their parents under pretence of religion. The censure of such as taught otherwise.

1. Under the name of *parents* is commonly understood not only the natural parents, but also the political or civil, that is, magistrates and rulers; as also spiritual parents, that is, the governors of the Church; and economical parents, that is, masters of families: whose authority respectively over their children, subjects, people, and servants, being very great, it was thought proper to secure it not only by the laws of the State, but also by the laws and spiritual censures of the Church.

Children by the old Roman law were esteemed so much the property and possession of their parents, that they had power of life and death over them[1], and also might sell them to be slaves without redemption[2], in cases of extreme necessity for

[1] Cod. Justin. l. 8. tit. 47. De patria potestate, leg. 10. (t. 4. p. 2242.) .... Patribus, quibus jus vitæ in liberos necisque potestas olim erat permissa, &c.

[2] Cod. Theod. l. 3. tit. 3. De patribus, qui filios distraxerunt, leg. 1. (t. 1. p. 257.) Omnes, quos parentum miseranda fortuna in servitium, dum victum requirunt, addixit, ingenuitati pristinæ reformentur, &c. —L. 5. tit. 8. De his, qui sanguinolentos emptos vel nutriendos acceperunt. (ibid. p. 448.) Secundum statuta priorum principum, si quis a sanguine quoquo modo legitime comparaverit, vel nutriendum putaverit, obtinendi ejus servitii habeat potestatem: ita ut si quis post seriem annorum ad libertatem eum repetat, vel servum defendat, ejusdem modi alium præstet, aut pretium, quod potest valere, exsolvat. —L. 11. tit. 27. De alimentis, quæ inopes parentes de publico petere debent, leg. 1. (t. 4. p. 188.) Æreis tabulis, vel cerussatis, aut linteis mappis, scripta per omnes civitates Italiæ proponatur lex, quæ parentum manus a parricidio arceat, votumque vertat in melius; officiumque tuum [vicarium Italiæ intelligit] hæc cura perstringat: Ut si quis parens afferat sobolem, quam pro paupertate educare non possit, nec in alimentis, nec in veste impertienda tardetur, cum educatio nascentis infantiæ moras ferre non pos-

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their own maintenance: as appears from several laws in both the Codes, and the complaints made by the Ancients[3] of this hardship, and the allusion which our Saviour makes in the parable to the like custom among the Jews, (Matth. 18, 25.) where the lord commands his debtor "to be sold, and his wife and children, and all that he had, and payment to be made." And though the laws of Christian emperors a little restrained this exorbitant power of parents, taking from them the power of life and death, and allowing children to be maintained out of the public revenue, to prevent being sold[4], or to be redeemed again, if sold; yet still they left a considerable power in the hands of parents to dispose of their children, whilst they were minors or under age, only excepting the cases of slavery and death. For, till the time of Justinian, children were not allowed to betake themselves to a monastic life without or against the consent of their parents. Which is evident from the rule of St. Basil[5], which forbids children to be received into monasteries, unless they were offered by their parents, if

sit: ad quam rem, et fiscum nostrum et rem privatam indiscreta jussimus præbere obsequia.—Leg. 2. (ibid. p. 190.) Provinciales, egestate victus atque alimoniæ inopia laborantes, liberos suos vendere, vel oppignorare cognovimus. Quisquis igitur hujusmodi reperietur, qui nulla rei familiaris substantiæ fultus est, quique liberos suos ægre ac difficile sustentet, per fiscum nostrum, antequam fiat calamitati obnoxius, adjuvetur: ita ut proconsules, præsidesque, et rationales per universam Africam habeant potestatem, et universis, quos adverterint in egestate miserabili constitutos, stipem necessariam largiantur; atque ex horreis substantiam protinus tribuant competentem: abhorret enim nostris moribus, ut quenquam fame confici, vel ad indignum facinus prorumpere, concedamus.—Conf. Valentin. Novel. 11. ad calc. Cod. Theod. (t. 6. append. p. 26.) De parentibus, qui filios suos, &c. Item, l. 5. tit. 8. De his, qui sanguinolentos emptos acceperint. Item, l. 11. tit. 27. De alimentis, quæ inopes parentes de publico petere debent. legg. 1 et 2.

[3] Basil. Hom. in Ps. 14. t. 1. p. 141. (t. 1. part. 1. p. 159 c. n. 4.) *Εἶδον ἐγὼ ἐλεεινὸν θέαμα, παῖδας ἐλευθέρους ὑπὲρ χρεῶν πατρικῶν ἑλκομένους εἰς τὸ πρατήριον· οὐκ ἔχεις καταλιπεῖν χρήματα τοῖς παισί; μὴ προσαφέλῃ καὶ τὴν εὐγένειαν.*

[4] Cod. Theod. l. 9. tit. 15. De his, qui parentes vel liberos occiderunt, lege unica. (t. 3. p. 112.) Si quis in parentis, aut filii, aut omnino affectionis ejus, quæ nuncupatione parricidii continetur, fata properaverit, sive clam sive palam id fuerit ausus, neque gladio, neque ignibus, neque ulla alia solemni pœna subjugetur, sed insutus culeo, et inter ejus ferales angustias comprehensus, serpentum contuberniis misceatur; et, ut regionis qualitas tulerit, vel in vicinum mare, vel amnem projiciatur: ut omni elementorum usu vivus carere incipiat, ut ei cœlum superstiti, terra mortuo auferatur.—Conf. tit. 27. legg. 1 et 2. See n. 2, preceding.

[5] Regul. Major. quæst. 15. (t. 2. part. 1. p. 496 d. n. 1.) *Τὰ δὲ ὑπὸ γονεῖς ὄντα, παρ' αὐτῶν ἐκείνων προσαγόμενα, ἐπὶ πολλῶν μαρτύρων δεχόμενοι, ὥστε μὴ δοῦναι ἀφορμὴν τοῖς θέλουσιν ἀφορμήν.*

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their parents were alive. And the Council of Gangra[6] lays an heavy penalty upon them: 'If any children, under pretence of religion, forsake their parents, and give them not the honour due unto them, let them be *anathema*.' This doctrine was taught and propagated by the Eustathian heretics, who also taught that women might leave their husbands, and parents desert their children, and take no further care of them, under the same pretence of betaking themselves to a monastic life. Against whom the same Council made several other canons[7], imposing the like penalty upon them.

Children not to marry without consent of their parents.

2. Another branch of paternal power was the right which parents had to dispose of their children in marriage: which right was so carefully guarded by the imperial laws, that we scarce find any crime so severely revenged as the violation of it, when children, who were under their parents' power, married without or against the consent of their parents, or such guardians and tutors as were in the room of them. Witness that famous law of Constantine in the Theodosian Code[8], which

[6] C. 16. (t. 2. p. 424 a.) Εἴ *τινα τέκνα γονέων, μάλιστα πιστῶν, ἀναχωροίη προφάσει θεοσεβείας, καὶ μὴ τὴν καθήκουσαν τιμὴν τοῖς γονεῦσιν ἀπονέμοι, προτιμωμένης δηλονότι παρ' αὐτοῖς τῆς θεοσεβείας, ἀνάθεμα ἔστω.*

[7] C. 14. (ibid. p. 419 e.) Εἴ *τις γυνὴ καταλιμπάνοι τὸν ἄνδρα, καὶ ἀναχωρεῖν ἐθέλοι, βδελυττομένη τὸν γάμον, ἀνάθεμα ἔστω.*—C. 15. (ibid. e.) Εἴ *τις καταλιμπάνῃ τὰ ἑαυτοῦ τέκνα, καὶ μὴ τεκνοτροφῇ, καὶ ὅσον ἐν ἑαυτῷ πρὸς θεοσέβειαν τὴν προσήκουσαν ἀγάγῃ, ἀλλὰ προφάσει τῆς ἀσκήσεως ἀμελοίη, ἀνάθεμα ἔστω.*

[8] L. 9. tit. 24. De raptu virginum et viduarum, leg. 1. (t. 3. p. 189.) Si quis nihil cum parentibus puellæ ante depectus [leg. depactus,] invitam eam rapuerit, vel volentem abduxerit, patrocinium ex ejus responsione sperans, . . . nihil ei secundum jus vetus prosit puellæ responsio; sed ipsa puella potius societate criminis obligetur. Et quoniam parentum sæpe custodiæ nutricum fabulis et pravis suasionibus deluduntur, his primum, quarum detestabile ministerium fuisse arguetur, redemptique discursus, pœna immineat, ut eis meatus oris et faucium, qui nefaria hortamenta protulerit, liquentis plumbi ingestione claudatur. Et si voluntatis assensio detegitur in virgine, eadem qua raptor severitate plectatur: cum neque his impunitas præstanda sit, quæ rapiuntur invitæ; cum et domi se usque ad conjunctionis diem servare potuerint; et, si fores raptoris frangerentur audacia, vicinorum opem clamoribus quærere, seque omnibus tueri conatibus. Sed his pœnam leviorem imponimus, solamque eis parentum negari successionem præcipimus. Raptor autem, indubitate convictus, si appellare voluerit, minime audiatur. Si quis vero servus, raptus facinus dissimulatione præteritum, aut pactione transmissum, detulerit in publicum, Latinitate donetur: aut si Latinus sit, civis fiat Romanus: parentibus, quorum maxime vindicta intererat, si patientiam præbuerint ac dolorem compresserint, deportatione plectendis. Participes etiam et ministros raptoris, citra discretionem sexus, eadem pœna præcipimus subjugari. Et si quis inter hæc ministeria servilis conditionis fuerit deprehensus, citra sexus discretionem eum concremari jubemus.

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runs in these terms: 'If any one, without first obtaining the consent of parents, steal a virgin against her will, or carry her off by her own consent, hoping that her consent will protect him; he shall have no benefit from such consent, as the ancient laws have determined; but the virgin herself shall be held guilty, as partaker in the crime. If any nurse be instrumental or accessory to the fact by her persuasions, which often defeat the parents' care, her detestable service shall be revenged by pouring molten lead into her mouth that ministered such wicked counsels. If the virgin be detected to have given her consent, she shall be punished with the same severity as the raptor himself: seeing she that is stolen away against her will is not suffered to go unpunished; because she might have kept herself at home; or, if she was taken by violence out of her father's house, she should have cried out for help to the neighbourhood, and used all means possible to defend herself. But on such we impose only a lighter punishment, denying them the right of succeeding to their father's inheritance. But the raptor himself, being clearly convicted, shall have no benefit of appeal. If parents, who are chiefly concerned to prosecute this crime, connive at it, they shall be banished. All who are partners or assistants to the raptor shall be liable to the same punishment, without distinction of sex. And if any such be slaves, they shall be burnt alive.'

This law of Constantine's is confirmed by another law of his son Constans [9], only with this difference, that whereas Constantine's law ordered the criminals to be burnt alive, or thrown to the wild beasts, as Gothofred interprets it; this of Constans so far moderated the punishment, as to let it be only a common death, that it might more duly be put in execution. Yet if any slaves were concerned in aiding the raptors in such attempts, they were still to be burnt alive, according to the tenour of the former law. By another law of Valentinian and Gratian [10], widows are not allowed to marry a second time

[9] Cod. Theod. ibid. leg. 2. (p. 193.) Quamvis legis prioris exstet auctoritas, qua inclytus pater noster contra raptores atrocissime jusserat vindicari, tamen nos tantummodo capitalem pœnam constituimus; videlicet, ne sub specie atrocioris judicii aliqua in ulciscendo crimine dilatio nasceretur. In audaciam vero servilem dispari supplicio mensura legum impendenda est, ut perurendi subjiciantur ignibus, &c.

[10] Cod. Theod. l. 3. tit. 7. de Nuptiis, leg. 1. (t. 1. p. 276.) Vi-

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without the consent of their parents, if they were under the age of twenty-five years, although they were *sui juris*, and enjoyed the liberty of emancipation. And there are many other laws in both the Codes [11] to the same purpose.

The ecclesiastical laws in this concur with the civil. St. Austin [12] says expressly, 'that mothers as well as fathers have this right in their children, to dispose of them in marriage, unless they be of that age which gives them liberty to choose for themselves.' Tertullian [13] says the same; 'that children cannot lawfully marry without the consent of their earthly parents.' St. Basil [14] in one of his canons gives directions 'that they who stole virgins should be treated as fornicators, that is,

duæ intra 25. annum degentes, etiamsi emancipationis libertate gaudeant, tamen in secundas nuptias non sine patris sententia conveniant.

[11] Cod. Theod. ibid. leg. 3. (p. 279.) Si donationum ante nuptias vel dotis instrumenta defuerint, pompa etiam aliaque nuptiarum celebritas omittatur, nullus æstimet ob id deesse, recte alias inito matrimonio, firmitatem, vel ex eo natis liberis jura posse legitimorum auferri, si inter pares honestate personas, nulla lege impediente, fiat consortium, quod ipsorum consensu atque amicorum fide firmatur.—Cod. Justin. l. 5. tit. 4. de Nupt. leg. 1. (t. 4. p. 1129.) Cum de nuptiis puellæ quæritur, nec inter tutorem et matrem et propinquos de eligendo futuro marito convenit; arbitrium præsidis provinciæ necessarium est.—Leg. 2. (p. ead.) Si nuptiis pater tuus consensit; nihil oberit tibi, quod instrumento ad matrimonium pertinenti non subscripsit.—Leg. 7. (p. ead.) Si post querelam de marito a filia tua ad te delatam, dissolutum est matrimonium, nec te consentiente ad eundem regressa est; minus legitima conjunctio est, cessante patris voluntate, in cujus est potestate: atque ideo, non petente filia, petitionem dotis repetere non prohiberis. —Leg. 20. (p. 1136.) In conjunctione filiarum in sacris positarum, patris exspectetur arbitrium. Sed si sui juris puella sit, intra quintum et vicesimum annum constituta, ipsius quoque assensus exploretur. Si patris auxilio destituta, matris, et propinquorum, et ipsius quoque requiratur adultæ judicium. Si vero utroque orbata parente, sub curatoris defensione constituta sit, etc. —Justin. Institut. l. 1. tit. 10. de Nuptiis, (t. 5. p. 47.) Si filii familiarum sint, et consensum habeant parentum, quorum sunt in potestate. Nam hoc fieri debere, et civilis et naturalis ratio suadet: in tantum ut jussus parentis præcedere debeat.

[12] Ep. 233. [al. 254.] ad Benenat. (t. 2. p. 881 e.)...Cujus [scil. matris] voluntatem in tradenda filia omnibus, ut arbitror, natura præponit; nisi eadem puella in ea jam ætate fuerit, ut jure licentiori sibi ipsi eligat quid [al. sibi eligat ipsa quod] velit.

[13] Ad Uxor. l. 2. c. 9. (p. 172 a.) Nam nec in terris filii sine consensu patrum recte [al. rite] et jure nubunt [al. nubent.]

[14] C. 22. [Oper. Basil. Ep. 199. Canonic. Secund.] (CC. t. 2. p. 1736 c.) Εἰ δὲ σχολάζουσάν τις λάβοι, ἀφαιρεῖσθαι μὲν δεῖ καὶ τοῖς οἰκείοις ἀποκαθιστᾶν· ἐπιτρέπειν δὲ τῇ γνώμῃ τῶν οἰκείων, εἴτε γονεῖς εἶεν, εἴτε ἀδελφοὶ, εἴτε οἱτινεσοῦν προεστῶτες τῆς κόρης· κἂν μὲν ἕλωνται αὐτῷ παραδοῦναι, ἵστασθαι τὸ συνοικέσιον· ἐὰν δὲ ἀνανεύσωσι, μὴ βιάζεσθαι. Τὸν μέν τοι ἐκ διαφθορᾶς, εἴτε λαθραίας εἴτε βιαιοτέρας, γυναῖκα ἔχοντα, ἀνάγκη τὸ τῆς πορνείας ἐπιγνῶναι ἐπιτίμιον· ἔστι δὲ ἐν τέσσαρσιν ἔτεσιν ὡρισμένη τοῖς πορνεύουσιν ἐπιτίμησις.

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do four years' penance; and when the virgins were restored to their guardians, it was at their discretion, whether they would give them in marriage to the raptors or not.' In another canon[15] he says, 'If slaves marry without the consent of their masters, or children without the consent of their parents; it is not matrimony but fornication, till they ratify it by their consent.' Again[16], 'If virgins, who are under the power of their parents, marry without their consent, they are to be treated as harlots. If their parents are afterwards reconciled to them, and give their consent, yet they shall do three years' penance for their first transgression.' And again[17], 'If a slave marry without the consent of her master, she differs nothing from an harlot: for contracts made without the consent of those under whose power they are, have no validity, but are null.' 'And therefore, though the master afterward give his consent, and make the marriage good, yet the first fault shall be punished as fornication.'

Nor slaves without the consent of their masters.

3. It appears from two of these last mentioned canons, that slaves were as much under the power of their masters, as children were under their parents: and therefore it was equally a crime for a slave to marry without the consent of the master,

[15] C. 42. (ibid. p. 1744 a.) *Οἱ ἄνευ τῶν κρατούντων γάμοι πορνεῖαί εἰσιν· οὔτε οὖν πατρὸς ζῶντος οὔτε δεσπότου οἱ συνιόντες ἀνεύθυνοί εἰσιν, ὡς ἐὰν* [al. *ἕως ἂν*] *ἐπινεύσωσιν οἱ κύριοι τὴν συνοίκησιν· τότε* [*γὰρ*] *λαμβάνει τὸ τοῦ γάμου βέβαιον.*

[16] C. 38. (ibid. p. 1741 d.) *Αἱ κόραι, αἱ παρὰ γνώμην τοῦ πατρὸς ἀκολουθήσασαι, πορνεύουσι· διαλλαγέντων δὲ τῶν γονέων δοκεῖ θεραπείαν λαμβάνειν τὸ γεγονὸς πρᾶγμα· οὐκ εὐθὺς δὲ εἰς τὴν κοινωνίαν ἀποκαθίστανται, ἀλλ' ἐπιτιμηθήσονται τρία ἔτη.*—Conf. Matth. Monach. Respons. Matrim. in Jure Gr.—Rom. Leunclavii, pp. 500, 501.

[17] C. 40. (ibid. e.) *Ἡ παρὰ γνώμην τοῦ δεσπότου ἀνδρὶ ἑαυτὴν ἐκδοῦσα ἐπόρνευσεν· ἡ δὲ μετὰ ταῦτα πεπαρρησιαμένῳ γάμῳ χρησαμένη, ἐγήματο. ὥστε ἐκεῖνο μεν πορνεία, τοῦτο δὲ γάμος· αἱ γὰρ συνθῆκαι τῶν ὑπεξουσίων οὐδὲν ἔχουσι βέβαιον.* [Conf. Balsam. ad loc. ap. Bevereg. Pandect. (t. 2. p. 98 c.).... *Κἂν μετὰ ταῦτα συναίνεσις παρηκολούθησε τοῦ δεσπότου, ἡ αὐτὴ ἡ δούλη ἐλευθερωθεῖσα τῷ προτέρῳ γάμῳ ἐστοίχησεν, οὐ λογίζεται τὸ γεγονὸς καὶ ἐξ ἀρχῆς αὐτῆς ἔννομον διὰ τὴν μετὰ ταῦτα συναίνεσιν, κατὰ τὸν νόμον τὸν λέγοντα, Τὰ ἐξ ἀρχῆς ἀβέβαια ἐκ τῶν μετὰ ταῦτα συμβαινόντων οὐ βεβαιοῦνται.* .... *Διά τοι τοῦτο, χάριν μὲν τοῦ προτέρου κακοῦ, ἐπιτίμια πορνείας τούτοις ἐπιφορτισθήσονται· ἡ δὲ μετὰ ταῦτα συμβίωσις ἔσται ἀνεπιτίμητος.*—Grischovius and those, who have copied the citations as first given *in extenso* by him, complain that they cannot find the last part of the Author's citation,—'And therefore, though the master, &c.'—in any copy of Basil's canon! How could they? for the words in question are indeed no part of *the canon itself*, but are the abstract of Balsamon's *comment and reasoning thereon*, as is plainly shown by the portion I have now cited as above. Ed.]

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as for a child to do it without consent of parents. And for the same reason a slave was not allowed either to enter himself into a monastery, or take orders, without the consent of his master, as has been shown in other places [18]; because this was to deprive his master of his legal right of service, which by the original state and condition of slaves was his due: and the Church would not be accessory to such frauds and injustice, but rather discourage them by prohibitions and suitable penalties laid upon them.

The punishment of treason and disrespect to princes.

4. Another sort of parents, whose honour was intended to be secured by this command, were *the political parents, patres patriæ*, kings and emperors, whose authority and majesty was reputed sacred and supreme next under God. And therefore all disloyalty and disrespect showed to them, either in word or action, was always severely chastised by the laws of the Church. I need not here suggest what civil penalties were inflicted by the laws of the State upon transgressors in this kind, because the ancient Civil Codes are full of them under several titles, which the learned reader may consult at his own leisure, such as 'Speaking evil of dignities [19];' 'Counterfeiting their letters [20],' 'Corrupting or counterfeiting their coin [21];' 'Consult-

[18] B. 4. ch. 4. s. 3. v. 2. p. 57. B. 7. ch. 3. s. 2. v. 2. p. 353.

[19] Vid. Cod. Theod. l. 9. tit. 4. Si quis Imperatori maledixerit, leg. 1. (t. 3. p. 42.) Si quis, modestiæ nescius et pudoris ignarus improbo petulantique maledicto nomina nostra crediderit lacessenda, ac temulentia turbulentus obtrectator temporum fuerit, eum pœnæ nolumus subjugari, neque durum aliquid nec asperum sustinere: quoniam, si id ex levitate processerit, contemnendum est: si ex insania, miseratione dignissimum: si ab injuria, remittendum. Unde integris omnibus ad nostram scientiam referatur, ut ex personis hominum dicta pensemus, et utrum prætermitti an exquiri debeat, censeamus.

[20] Ibid. tit. 19. ad Legem Corneliam de Falso, leg. 3. (ibid. p. 161.) Serenitas nostra prospexit, inde cœlestium [i. e. imperatoriarum] literarum cœpisse imitationem, quod his apicibus tuæ gravitatis officium consultationes, relationesque complectitur, quibus scrinia nostræ perennitatis utuntur: quamobrem istius sanctionis auctoritate præcipimus, ut posthac, magistra falsorum, consuetudo tollatur, et communibus literis universa mandentur, quæ vel de provincia fuerint scribenda, vel a judice; ut nemo stili hujus exemplum aut privatim sumat, aut publice.

[21] Ibid. tit. 21. de Falsa Moneta, leg. 1. (p. 169.) Quicunque adulterina fecerit nomismata, pœnam pro discretione sexus et conditionis suæ diversitate sustineat: hoc est, ut, si decurio vel decurionis sit filius, exterminatus genitali solo ad quamcunque in longinquo positam civitatem sub perpetui exilii conditione mittatur, ac super facultatibus ejus ad nostram scientiam referatur: si plebeius, ut rebus amissis perpetuæ damnationi dedatur: si servilis conditionis, ultimo supplicio subjugetur.—Conf. leg. seqq. It. tit. 22.

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ing augurs or astrologers about the term of their life[22];' or 'Using any curious arts to know who should be their successor;' 'Raising of tumults[23] to the disturbance of the public discipline;' 'Conspiring against their lives, or government[24];' 'Bearing arms without their authority[25];' and the like crimes, which come under the general names of *sedition, treason, conspiracy,* and *rebellion,* which were always excepted in those general indulgences[26], that the emperors were wont to grant at Easter to other criminals. I need not say further, that the contempt of the imperial laws was usually reputed a sort of sacrilege by the laws themselves[27], and punished under that title.

That which I am chiefly concerned to remark here is, the

(p. 180.) Si quis solidi circulum exteriorem inciderit, vel adulteratum in vendendo subjecerit.—It. tit. 23. (p. 185.) Si quis pecunias conflaverit, etc.

[22] Ibid. tit. 16. de Malefic. et Mathemat. leg. 8. (ibid. p. 127.) Cesset mathematicorum tractatus: nam si quis publice aut privatim, in die noctuque, deprehensus fuerit in cohibito errore versari, capitali sententia feriatur uterque.

[23] Ibid. tit. 33. De his qui plebem audent contra publicam colligere disciplinam, leg. 1. (ibid. p. 236.) Si quis, contra evidentissimam jussionem, suscipere plebem, et adversus publicam disciplinam defendere, fortasse tentaverit, mulctam gravissimam sustinebit.

[24] Ibid. tit. 5. ad Legem Juliam Majestatis, leg. 1. (ibid. p. 49.) Si quis alicui majestatis crimen intenderit, cum in hujuscemodi re convictus minime quisquam, privilegio dignitatis alicujus, astrictiore inquisitione defendatur; sciat se quóque tormentis esse subdendum, si aliis manifestis indiciis accusationem suam non potuerit comprobare, cum eo, qui hujus esse temeritatis deprehenditur. Illum quoque tormentis subdi oportet, cujus consilio ac instinctu ad accusationem accessisse videbitur, ut ab omnibus commissi consciis statuta vindicta possit reportari, etc.—Tit. 6. Ne præter crimen majestatis servus dominum, vel patronum libertus seu familiaris, accuset. (ibid. p. 51.)—Tit. 14. ad Legem Corneliam de Sicariis. (ibid. p. 84.)—Tit. 40. de Pœnis, legg. 15, 16, 17. (ibid. pp. 308, seqq.)—L. 15. tit. 14. De infirmandis his, quæ sub tyrannis gesta sunt (t. 5. p. 403.)

[25] Ibid. l. 15. tit. 14. leg. 1. Ut armorum usus inscio principe interdictus sit. (juxt. Cod. Justin. l. 11. leg. 46. t. 5. p. 167. Cod. Theod. t. 5. p. 419.) Nulli prorsus, nobis insciis atque inconsultis, quorumlibet armorum movendorum copia tribuatur.

[26] Ibid. l. 9. tit. 38. de Indulgentiis Criminum. (t. 3. pp. 266, seqq.)

[27] Ibid. l. 6. tit. 5. leg. 2. (t. 2. p. 70.) . . . Sitque plane sacrilegii reus, qui divina præcepta neglexerit.—It tit. 24. de Domesticis, leg. 4. (ibid. p. 135.) Pœna sacrilegii similis erit, si his honorificentia non deferatur, qui contingere nostram purpuram digni sunt æstimati.—Tit. 35. De privilegiis militum palatinorum, leg. 13. (p. 244.) Omnes, qui in palatio militando diversis actibus paruerunt, secundum legem domini Germani nostri, in tantum ejus dignitatis, cujus meruerint missionem, obtinere norint insignia, ut his omnibus præferantur in ordine atque consessu, qui posteriore tempore regendas provincias dignitatesque susceperint palatinas. Hoc autem generale decretum si quisquam temeraria usurpatione violare tentaverit, sacrilegii reus legibus censeatur.—It. tit. 35.

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ecclesiastical punishment of disloyalty and treason, and all scandalous contempt of civil government; against which sort of crimes, whether in word or deed, the Ancients showed great resentment. For the first three hundred years they gloried greatly over the Heathens in this, that though the emperors were Heathens, and some of them furious persecutors of the Christians, yet there were never any seditious or disloyal persons to be found among the persecuted Christians. 'You defame us,' says Tertullian[28], 'with treason against the emperor, and yet never could any Albinians, Nigrians, or Cassians, (persons that had taken arms against the emperors,) be found among the Christians. Such as those are they, that swear by the emperors' genii, that have offered sacrifice for their safety, that have often condemned Christians; these are the men that are found enemies to the emperors. A Christian is no man's enemy, much less the emperor's: knowing him to be the ordinance of God, he cannot but love, revere, and honour him, and desire that he and the whole Roman empire may be in safety to the end of the world. We worship the emperor, as much as is either lawful or expedient, as one that is next to God;...we sacrifice for his safety, but it is only to his and our God; and in such manner as he has commanded, only by holy prayer. For the great God needs no blood or sweet perfumes: these are the banquets and repast of devils, whom we not only reject, but expel at every turn.' For this reason, during this interval, there was no need of ecclesiastical punishments to correct traitors against the civil government, because there were no such among Christians. But when the whole

De privilegiis militum palatinor. leg. 13. (ibid. p. 244.) et passim alibi.

[28] Ad Scapulam, c. 2. (p. 69 b.) Circa majestatem imperatoris infamamur, tamen nunquam Albiniani, nec Nigriani, vel Cassiani inveniri potuerunt Christiani: sed iidem ipsi, qui per genios eorum in pridie usque juraverant, qui pro salute eorum hostias et fecerant et voverant, qui Christianos sæpe damnaverant, hostes eorum sunt reperti. Christianus nullius est hostis, nedum imperatoris; quem sciens a Deo suo constitui, necesse est ut et ipsum diligat, et revereatur, et honoret, et salvum velit, cum toto Romano imperio, quousque sæculum stabit: tam diu enim stabit. Colimus ergo et imperatorem sic, quomodo et nobis licet, et ipsi expedit, ut hominem a Deo secundum: et quicquid est, a Deo consecutum [est], et solo Deo minorem... Sacrificamus pro salute imperatoris, sed Deo nostro et ipsius; sed, quomodo præcepit Deus, pura prece. Non enim eget Deus, conditor universitatis, odoris aut sanguinis alicujus. Hæc enim dæmoniorum pabula sunt. Dæmones autem non tantum respuimus, verum et revincimus, et quotidie traducimus, et de hominibus expellimus.

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world was become Christian, there was occasion for such laws to be made against sedition and treason, and then we find several canons to prevent or correct it. The fourth Council of Carthage[29] forbids the ordination of any seditious persons, as those that would be a scandal to the profession: and this is repeated in the same words by the Council of Agde[30]. The fourth Council of Toledo[31] orders all clergymen that took arms in any sedition, to be degraded from their order, and to be confined to a monastery, to do penance there all their lives. The fifth Council of Toledo[32] mentions an oath of allegiance, which in a former general Council of all Spain, was appointed to be taken by all the subjects to the king and his heirs: and a most severe *anathema* is pronounced against all that should violate any part of it. Particularly they excommunicate and anathematize all that should pretend to usurp the throne[33], without the consent of the nobility and the whole Gothic nation; all that should make any curious and unlawful inquiries about the fatal period of the life of the prince[34]; all that should speak

[29] C. 67. (t. 2. p. 1205 c.) Seditionarios nunqnam ordinandos clericos, sicut nec usurarios nec injuriarum suarum ultores.

[30] C. 69. (t. 4. p. 1394 c.)

[31] C. 44. [al. 45.] (t. 5. p. 1717 b.) Clerici, qui in quacunque seditione arma volentes sumpserint, aut [al. vel] sumpserunt, reperti, amisso ordinis sui gradu, in monasterium contradantur pœnitentiæ.

[32] C. 2. (ibid. p. 1736 b.) Sed ne succedentes præcedentibus, ac deinde sequentes invideant anterioribus, et ut cuncta quiete et pacate permaneant, hæc nostri concilii communiter considerata defertur sententia, ut servetis quæcunque in universali et magna synodo provisa conscriptaque circa principum salutem et utilitatem sunt.... Quocirca ne hæc promissa timerentur, et, ut cupiditas radix omnium malorum auferatur, contestamur omnes, præsentes et absentes, vel etiam futuris temporibus subsequentes, coram Deo et angelis ejus. Quod si quisquam nostræ contestationi temerator exstiterit, et quacunque argumentatione odiose eos molestare, aut in aliquot fuerit conatus lædere, sit anathema in Christianorum omnium cœtu, atque superno condemnetur judicio: sit exprobrabilis omnibus Catholicis, et abominabilis sanctis angelis in ministerio Dei constitutis: sit in hoc sæculo perditus, et in futuro condemnatus, qui tam rectæ provisioni noluit præbere consensum.

[33] C. 3. (ibid. e.) Quoniam inconsideratæ quorundam mentes, et se minime capientes, quos nec origo ornat, nec virtus decorat, passim putant licenterque ad regiæ majestatis pervenire fastigia; hujus rei causa nostra omnium, cum invocatione divina, profertur sententia, ut qui talia meditatus fuerit, quem nec electio omnium probat, nec Gothicæ gentis nobilitas ad hunc honoris apicem trahit, sit a consortio Catholicorum privatus, et divino anathemate condemnatus.

[34] C. 4. (ibid. p. 1737 a.) Ergo, quia et religioni inimicum, et hominibus constat esse superstitiosum [al. perniciosum], futura illicite cogitare, et casus principum exquirere, ac sibi in posterum providere; cum scriptum sit, *Non est vestrum nosse tempora, vel momenta, quæ Pater posuit in sua potestate;* hoc decreto censemus, ut quisquis inventus fu-

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evil of him: for it is written, "Thou shalt not speak evil of the ruler of thy people." 'If railers shall not inherit the kingdom of God[35], how much rather ought such contemners of the divine law to be cast out of the Church?' Finally, they made an order[36], 'that in every Council held in Spain, this decree concerning allegiance due to princes should be read, when all other things were done, to the end that no one might be unmindful of his duty and obligations to the sovereign power.' And accordingly we find the same decree repeated and confirmed in several other Councils[37] of that nation.

Of contemners of the laws of the Church.

5. The last sort of parents, to whom honour and obedience is due, are the spiritual parents, or governors of the Church; the contempt of whose laws and rules, made for the good government, order, and edification of the Church, was always thought a matter worthy of ecclesiastical censure. There are innumerable instances of this in the acts and canons of the ancient Councils: I shall content myself with relating two or three, which concern matters purely of ecclesiastical observation.

The Council of Antioch[38] excommunicates all those who per-

erit talia perquisisse, et, vivente principe, in alium attendisse pro futura regni spe, aut alios in se propter id attraxisse, a conventu Catholicorum excommunicationis sententia repellatur.

[35] C. 5. (ibid. c.) Sed et hoc pro pestilentiosis hominum moribus salubri ordinatione censemus, ne quis in principem maledicta congerat. Scriptum est enim a Legislatore, *Principem populi tui non maledices.* Quod si quis fecerit, excommunicatione ecclesiastica plectatur. Nam si *maledici regnum Dei non possidebunt*, quanto magis talis ab ecclesia necessario pellitur, qui divinæ violator sententiæ invenitur.

[36] C. 7. (ibid. e.) Propter malarum mentium facilitatem et memoriæ oblivionem hoc sacratissima statuit synodus, ut in omni concilio episcoporum Hispaniæ, universalis concilii decretum, quod propter principum nostrorum est salutem constitutum, peractis omnibus in synodo, publica voce debeat pronuntiari; quatenus sæpe supplicatum auribus, vel assiduitate iniquorum mens territa corrigatur, quæ ad prævaricandum et oblivione et facilitate, producitur [al. perducitur].

[37] C. Tolet. 6. cc. 17 et 18 tot. (ibid. p. 1748 d. e.)... Rege defuncto, &c.—C. Tolet. 10. c. 2. (t. 6. p. 461 b.) Si quis religiosorum, &c.—C. Tolet. 12. c. 1. (ibid. p. 1224 a.) In nomine, &c.

[38] C. 1. (t. 2. p. 561 a.) *Πάντας τοὺς τολμῶντας παραλύειν τὸν ὅρον τῆς ἁγίας καὶ μεγάλης συνόδου, τῆς ἐν Νικαίᾳ συγκροτηθείσης ἐπὶ παρουσίᾳ τῆς εὐσεβείας τοῦ θεοφιλεστάτου βασιλέως Κωνσταντίνου, περὶ τῆς ἁγίας ἑορτῆς τοῦ σωτηριώδους Πάσχα, ἀκοινωνήτους καὶ ἀποβλήτους εἶναι τῆς ἐκκλησίας, εἰ ἐπιμένοιεν φιλονεικότερον ἐνιστάμενοι πρὸς τὰ καλῶς δεδογμένα· καὶ ταῦτα εἰρήσθω περὶ τῶν λαϊκῶν. Εἰ δέ τις τῶν προεστώτων τῆς ἐκκλησίας, ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, μετὰ τὸν ὅρον τοῦτον τολμήσειεν ἐπὶ διαστροφῇ τῶν λαῶν, καὶ ταραχῇ τῶν ἐκκλησιῶν, ἰδιάζειν καὶ μετὰ τῶν Ἰουδαίων ἐπιτελεῖν τὸ Πάσχα· τοῦτον ἡ ἁγία σύνοδος ἐντεῦθεν*

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tinaciously oppose the rule made about Easter in the Council of Nice. The first Council of Carthage[39] more generally censures all opposers of ecclesiastical orders: 'If any one viciously transgress or contemn the decrees of the Church; if he be a layman, let him be excommunicated; if a clergyman, let him be deprived of the honour of his order.' The Council of Epone[40] in like manner concludes her decrees with this sanction: 'If any one disorderly transgress the rules and observations which the holy bishops have made in this present Council, and confirmed with their subscriptions, let him know that he shall be liable to the judgment both of God and the Church.' The fourth Council of Toledo[41] orders 'such as reject the use of the hymns and prayers appointed by the Church, to be punished with excommunication.' And King Reccaredus, in the third Council of Toledo[42], besides excommunication, orders a civil penalty of confiscation and banishment to be inflicted on such as proudly contemned the rules then made in Council, and refused to yield obedience to them. And laws of the same import occur everywhere both in the civil and ecclesiastical Codes, so that I need not trouble the learned reader with any more of them, having suggested these few as a specimen of that obedience which was required to be paid to the laws and authority of the Church under the penalty of excommunication.

ἤδη ἀλλότριον ἔκρινεν τῆς ἐκκλησίας· ὡς οὐ μόνον ἑαυτῷ ἁμαρτίας, ἀλλὰ πολλοῖς διαφθορᾶς καὶ διαστροφῆς, γινόμενον αἴτιον· καὶ οὐ μόνον τοὺς τοιούτους καθαιρεῖ τῆς λειτουργίας, ἀλλὰ καὶ τοὺς τολμῶντας τούτοις κοινωνεῖν μετὰ τὴν καθαίρεσιν· τοὺς δὲ καθαιρεθέντας ἀποστερεῖσθαι καὶ τῆς ἔξωθεν τιμῆς, ἧς ὁ ἅγιος κανὼν καὶ τὸ τοῦ Θεοῦ ἱερατεῖον μετείληφεν.

[39] C. 14. (ibid. p. 718 b.) Si quis statuta supergressus corruperit, vel pro nihilo habenda putaverit; si laicus est, communione, si clericus est, honore privetur.

[40] C. 40. (t. 4. p. 1581 b.) Si quis sanctorum antistitum, qui statuta præsentia subscriptionis propriis firmaverunt, relicta integritate, observationes excesserit, reum se divinitatis pariter et fraternitatis judicio futurum esse cognoscat.

[41] C. 12. [al. 13.] (t. 5. p. 1710 c.) ..... Sicut orationes, ita et hymnos in laudem Dei compositos, nullus nostrum ulterius improbet, sed pari modo in Gallicia [al. Gallia] Hispaniaque celebrent: excommunicatione plectendi, qui hymnos rejicere fuerint ausi.

[42] Edict. ad calc. C. Tolet. 3. (ibid. p. 1015 c.) Si quis vero clericus aut laicus harum sanctionum obediens [al. observator] esse noluerit, superba fronte majorum statutis repugnans: si episcopus, presbyter, diaconus, aut clericus fuerit, ab omni concilio excommunicationi subjaceat: si vero laicus fuerit, et honestioris loci persona est; medietatem facultatum suarum amittat, fisci juribus profuturam: si vero inferioris loci persona est, amissione rerum suarum mulctatus in exsilio deputetur.

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CHAP. X.

Of great transgressions against the Sixth Commandment, murder, manslaughter, parricide, self-murder, dismembering the body, causing abortion, &c.

Murder ever reckoned a capital and unpardonable crime by the laws of the State.

1. We are now come to the great sin of murder, which the civil laws always reckon among those called *atrocia delicta* and *atrocissima crimina, those heinous* and *capital crimes*, for which they neither allowed pardon nor appeal after clear conviction. This crime was always excepted in those indulgences, or general pardons[43], which the emperors granted to criminals upon the account of their children's birthdays, or the annual returns of the Easter-festival, or any the like occasion. And whereas many other criminals were allowed the benefit of appealing, this was wholly denied to murderers[44]; nor

[43] Vid. Cod. Theod. l. 9. tit. 38. de Indulgentiis Criminum, leg. 1. See before, ch. 5. s. 5. p. 251. n. 73. —Ibid. leg. 6. (t. 3. p. 275.) Paschalis lætitiæ dies ne illa quidem tenere sinit ingenia, quæ flagitia fecerunt: pateat insuetis horridus carcer aliquando luminibus. Alienum autem censemus ab indulgentia: 1. Qui nefariam [al. nefariorum] criminum conscientiam in majestatem superbe animaverit [al. animadvertit]: 2. Qui parricidali furore raptus sanguine proprio manum tinxit: 3. Qui cujusque præterea hominis cæde maculatus est: 4. Qui genialis tori ac lectuli fuit invasor alieni: 5. Qui verecundiæ virginalis raptor exstitit: 6. Qui venerandum cognati sanguinis vinculum profano cæcus violavit incestu: vel 7. Qui, noxiis quæsita graminibus et diris immurmurata secretis, mentis et corporis venena composuit: aut 8. Qui, sacri oris imitator, et divinorum vultuum appetitor, venerabiles formas sacrilegio eruditus impressit, &c.—Leg. 7. (p. 276.) Religio anniversariæ obsecrationis hortatur, ut omnes omnino periculo carceris metuque pœnarum eximi juberemus, qui leviore crimine rei sunt postulati. Unde apparet, eos excipi quos atrox cupiditas in scelera compulit sæviora: in quibus est 1. primum crimen et maximum, majestatis, 2. deinde homicidii, 3. veneficiique, ac 4. maleficiorum, 5. stupri, atque 6. adulterii, parique immanitate sacrilegii, 7. sepulchrique violatio, 8. raptus, 9. monetæque adulterata figuratio.—Leg. 8. (p. 277.) Ubi primum dies Paschalis exstiterit, nullum teneat carcer inclusum, omnium vincla solvantur. Sed ab his secernimus eos, quibus contaminari potius gaudia lætitiamque communem, si dimittantur, advertimus. Quis enim 1. sacrilego diebus sanctis indulgeat? Quis 2. adultero, vel 3. incesti reo tempore castitatis ignoscat? quis non 4. raptorem in summa quiete et gaudio communi persequatur instantius? 5. Nullam accipiat requiem vinculorum, qui quiescere sepultos quadam sceleris immanitate non sivit: patiatur tormenta 6. veneficus, 7. maleficus, 8. adulteratorque monetæ: 9. homicida, quod fecit semper exspectet: 10. reus etiam majestatis, de domino, adversum quem talia molitus est, veniam sperare non debet.

[44] Ibid. l. 11. tit. 36. Quorum appellationes non recipiendæ, leg. 1. (t. 4. p. 292.) Cum homicidam, vel maleficum, vel veneficum, quæ atrocissima crimina sunt, confessio propria..... detexerit, provo-

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might any such criminals anciently pretend to shelter themselves by taking sanctuary in the church, which is expressly provided by a law of Justinian[45], determining who may or may not take refuge in the church; where, among those to whom this privilege is denied, murderers, adulterers, and ravishers of virgins are particularly recounted.

How punished by the laws of the Church.

2. By the most ancient laws of some Churches, murderers seem to have been subjected to a perpetual penance all their lives, and by some denied communion even at the hour of death. Tertullian[46] says plainly, that neither idolaters nor murderers were admitted to the peace of the Church. And that he means not here, *by the Church,* his own sect of the Montanists, but the Catholic Churches, is concluded by learned men[47] from hence, that he is arguing with the Catholics, that they ought to deny adulterers the peace of the Church, by the same reason and rule that they denied it to idolaters and murderers. Which implies, at least, that some Catholic Churches in Afric refused to admit murderers to communion. Which is the more probable from what Cyprian[48] says of some of his predecessors, 'that they were used to deny fornicators and adulterers the peace of the Church, though they did not upon this break communion with others that admitted them.' Now murder being as great a crime as adultery, it is likely they rejected murderers as well as adulterers utterly from their communion. In the following ages the term of their penance

cationes suscipi non oportet.—Conf. leg. 7. (ibid. p. 298.) Observare curabis, &c.

[45] Novel. 17. c. 7. See before, b. 8. c. 11. s. 8. v. 3. p. 213. n. 75.

[46] De Pudicit. c. 12. (p. 564 b.)... Neque idololatriæ neque sanguini pax ab ecclesiis redditur.

[47] Vid. Albaspin. Observat. l. 2. c. 15. p. 123. (ad calc. Optat. p. 74 a.) Verba ista Libri de Pudicitia, ... *Hinc est, quod neque idololatriæ, &c.,* liquido demonstrant solitos fuisse orthodoxos homicidis non communicare absolutionem, sed solam pœnitentiam, eosque æterno quasi exsilio condemnatos ab ecclesia abigere. Quod enim roboris, virium, ac ponderis argumenta, quæ ab eo suggeruntur, in orthodoxos habuissent, nisi opinionis eorum et disciplinæ fuisset, homicidas perpetuæ pœnitentiæ, interclusa omni spe majoris gratiæ, censura inuere? Id veri speciem non habet; nec aliter de Tertulliano cuiquam sentiendum erit, qui præsertim ejus viri ingenium acre et tetricum cognoverit, qui quidem crimini non vertisset orthodoxis, quod homicidas perpetuo ab ecclesia relegarent, adulteris autem ad misericordiam sperandam quasi signum præferrent; nisi utrumque tum temporis verum et usitatum fuisset. Quare cum ejusmodi argumenta contra orthodoxos excogitet et proferat, omni asseveratione confirmare possumus, eorum fuisse hanc et docendi et vivendi rationem.

[48] Ep. 52. [al. 55.] ad Antonian. p.

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was a little moderated. For the Council of Ancyra[49] obliges them only to do penance all their lives, and allows them to be received at the hour of death. Other canons reduce their penance to a certain term of years. St. Basil[50] appoints the wilful murderer 'twenty years' penance: four years as a mourner; five years as an hearer; seven years as a prostrator; four years as a co-stander only, to hear the prayers without receiving the communion.'

The heinousness of murder, when joined with other crimes, such as idolatry, adultery, and magical practices.

3. Yet in some cases the discipline continued still to be more severe against murder, when it happened to be complicated with other great crimes, such as idolatry, adultery, and the practice of magical and diabolical arts against the lives of men; because these were great aggravations to inflame the account of murder. Thus in the Council of Eliberis[51]: 'If any Christian took upon him the office of an Heathen *flamen*, and therein sacrificed, and committed adultery and murder;' (which might be done either directly, by a personal commission of those crimes; or indirectly, by exhibiting the games and shows wherein adultery and murder were committed by their authority and concurrence;) 'in such a case he was to be denied communion even at the hour of death, because he had doubled and tripled his crime,' as the canon words it. So again[52]: 'If any one used pharmacy or magical art to kill an-

110. (p. 247.) ... Apud antecessores nostros quidam de episcopis istic in provincia nostra dandam pacem mœchis non putaverunt, et in totum pœnitentiæ locum contra adulteria clauserunt, &c.

[49] C. 22. (t. 1. p. 1464 c.) *Περὶ ἑκουσίων φόνων, ὑποπιπτέτωσαν μὲν, τοῦ δὲ τελείου ἐν τῷ τέλει τοῦ βίου καταξιούσθωσαν.*—Conf. C. Epaun. c. 31. (t. 4. p. 1580 b.) De pœnitentia homicidarum, qui sæculi leges evaserint, hoc summa reverentia de eis inter nos placuit observari, quod Ancyritani canones decreverunt.

[50] C. 56. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1748 d.) *Ὁ ἑκουσίως φονεύσας μετὰ δὲ τοῦτο μεταμεληθεὶς, εἴκοσιν ἔτη ἀκοινώνητος ἔσται τοῖς ἁγιάσμασι* [al. *τοῦ ἁγιάσματος*]. *Τὰ δὲ εἴκοσιν ἔτη οὕτως οἰκονομηθήσεται ἐπ' αὐτῷ· ἐν τέσσαρσιν ἔτεσι προσκλαίειν ὀφείλει, ἔξω τῆς θύρας ἑστὼς τοῦ εὐκτηρίου οἴκου, καὶ τῶν εἰσιόντων πιστῶν δεόμενος, εὐχὴν ὑπὲρ αὐτοῦ ποιεῖσθαι, ἐξαγορεύων τὴν ἰδίαν παρανομίαν· μετὰ δὲ τὰ τέσσαρα ἔτη εἰς τοὺς ἀκροωμένους δεχθήσεται, καὶ ἐν πέντε ἔτεσι μετ' αὐτῶν ἐξελεύσεται· ἐν δὲ ἑπτὰ ἔτεσι μετὰ τῶν ἐν ὑποπτώσει προσευχόμενος ἐξελεύσεται· ἐν τέσσαρσι συστήσεται μόνον τοῖς πιστοῖς, προσφορᾶς δὲ οὐ μεταλήψεται· πληρωθέντων δὲ τούτων, μεθέξει τῶν ἁγιασμάτων.*

[51] C. 2. (t. 1. p. 969 e.) Flamines, qui post fidem lavacri et regenerationis sacrificaverunt; eo quod geminaverint scelera, accedente homicidio, vel triplicaverint facinus, cohærente mœchia, placuit eos nec in fine accipere communionem.

[52] C. 6. (ibid. p. 971 c.) Si quis vero maleficio interficiat alterum, eo quod sine idololatria perficere scelus non potuit, nec in fine impertiendam esse illi communionem.

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other, he was not to be received into communion even at the hour of death, because here was a conjunction of idolatry with murder.' In like manner another canon[53] of the same Council orders, 'that if a woman conceive by adultery, in the absence of her husband, and after that murder her child, she shall be rejected to the very last, because she has doubled her crime.' But the Council of Ancyra is a little more favourable in the case of simple fornication joined with murder. For it is there[54] observed, 'that if a woman committed fornication, and murdered her infant, or caused abortion, she should only do ten years' penance,' though by former canons she was obliged to do penance all her life. The Council of Lerida[55] appoints seven years' penance for common murder; but if it were done by sorcery, then it was penance for the whole life.

Causing of abortion condemned and punished as murder.

4. And here we may observe, that causing of abortion was esteemed one species of murder, and accordingly punished as such when wilfully procured. So it is determined not only in the fore-mentioned canon of Ancyra, but in the canons of St. Basil[56]: 'Let her that procures abortion undergo ten years' penance, whether the embryo be perfectly formed or not.' So again[57]: 'They are murderers who take medicines to procure abortion.' And so the Council of Trullo[58]: 'They who give medicines to cause abortion, and they who take pernicious physic to destroy the embryo in the womb, are to undergo the

[53] C. 63. (ibid. p. 977 b.) Si qua [mulier] per adulterium, absente marito, conceperit, idque post facinus occiderit, placuit neque in fine dandam esse communionem, eo quod geminaverit scelus. [Vix in fine, &c. Crabb. in marg. t. 1. p. 285. Ed.]

[54] C. 21. (ibid. p. 1464 c.) *Περὶ τῶν γυναικῶν τῶν ἐκπορνευουσῶν καὶ ἀναιρουσῶν τὰ γεννώμενα, καὶ σπουδαζουσῶν φθόρια ποιεῖν, ὁ μὲν πρότερος ὅρος μέχρις ἐξόδου ἐκώλυσεν· καὶ τούτῳ συντίθενται· φιλανθρωπότερον δέ τι εὑρόντες ὡρίσαμεν δεκαετῆ χρόνον κατὰ τοὺς βαθμοὺς τοὺς ὡρισμένους.*

[55] C. 2. (t. 4. p. 1611 d.)... Ipsis autem veneficis in exitu tantum communio tribuatur.

[56] C. 2. [Oper. Basil. Ep. 188. Canonic. Prim.] (CC. t. 2. p. 1720 c.) *Φθείρασα κατ' ἐπιτήδευσιν φόνου δίκην ὑπέχει· ἀκριβολογία δὲ ἐκ μεμορφωμένου καὶ ἀνεξεικονίστου παρ' ἡμῖν οὐκ ἔστιν· ἐνταῦθα γὰρ ἐκδικεῖται οὐ μόνον τὸ γεννηθησόμενον, ἀλλὰ καὶ αὐτὴ ἡ ἑαυτῇ ἐπιβουλεύσασα·... πρόσεστι δὲ τούτῳ καὶ ἡ φθορὰ τοῦ ἐμβρύου, ἕτερος φόνος, κατά γε τὴν ἐπίνοιαν τῶν ταῦτα τολμώντων.*

[57] Ibid. c. 8. (CC. ibid. p. 1725 b.).... *Καὶ αἱ τοίνυν τὰ ἀμβλωθρίδια διδοῦσαι φάρμακα φονεύτριαί εἰσι καὶ αὗται, καὶ αἱ δεχόμεναι τὰ ἐμβρυοκτόνα δηλητήρια.*

[58] C. 91. (t. 6. p. 1182 a.) *Τὰς τὰ ἀμβλωθρίδια διδούσας φάρμακα, καὶ τὰς δεχομένας τὰ ἐμβρυοκτόνα δηλητήρια, τῷ τοῦ φονέως ἐπιτιμίῳ καθυποβάλλομεν.*

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penance of murderers.' The Council of Lerida[59] puts those, who destroy the conception in the womb by certain potions, into the same class with those that kill infants after they are born; and appoints a course of seven years' penance for both sorts, as joining murder to adultery.

The private writers among the Ancients with one consent declare this to be murder. 'In the prohibition of murder,' says Tertullian[60], 'we are forbidden to destroy the conception in the womb, whilst the blood is in its first formation of an human body. To hinder that which might be born, is but an anticipation or hastening of murder: and it is all one whether a man destroy that life which is already born, or disturb that which is preparing to be born. He is a man who is in a disposition to be a man, and all fruit is now in its seed or principle of existence.' This he says in answer to the Heathen objection, who charged the Christians with feasting upon the blood of an infant in their sacred mysteries. Minucius[61] inverts the charge upon the Heathen, telling them, 'It was their own practice by medicated potions to destroy man, that would be, in his first original, and for mothers to commit parricide before they brought forth.' 'But as for Christians,' says Athenagoras[62], writing in their behalf, 'how should they be guilty of murdering men, who declare that mothers, who use medicines to cause abortion, are murderers, and must give account of their wickedness unto God.' St. Jerom[63] calls this

[59] C. 2. (t. 4. p. 1611 c.) Hi vero, qui male conceptos ex adulterio fœtus, vel editos, necare studuerint, vel in uteris matrum potionibus aliquibus colliserint, in utroque sexu adulteris post septem annorum curricula communio tribuatur.

[60] Apol. c. 9. (p. 9 d.) Nobis vero homicidio semel interdicto, etiam conceptum utero, dum adhuc sanguis in hominem deliberatur [al. delibatur], dissolvere non licet. Homicidii festinatio est, prohibere nasci: nec refert natam quis eripiat animam, an nascentem disturbet: homo est et qui est futurus, etiam [al. et] fructus omnis jam in semine est.

[61] Octav. p. 91. (c. 30. p. 151.) Vos enim video procreatos filios nunc feris et avibus exponere, nunc adstrangulatos misero mortis genere elidere. Sunt, quæ in ipsis visceribus medicaminibus epotis originem futuri hominis exstinguant et parricidium faciant, antequam pariant.—Conf. Cypr. Ep. 49. [al. 52.] ad Cornel. p. 97. de Parracid. Novat. (p. 238.) .... Uterus uxoris calce percussus, et abortione properante in parricidium partus expressus, &c.

[62] Legat. (ad calc. Just. Mart. p. 38 c.) Πῶς οὖν, μηδὲ ὁρῶντες, ἵνα μὴ ἑαυτοῖς ἄγος καὶ μίασμα προστριψαίμεθα, φονεύειν δυνάμεθα; καὶ οἱ τὰς τοῖς ἀμβλωθριδίοις χρωμένας ἀνδροφονεῖν τε καὶ λόγον ὑφέξειν τῆς ἐξαμβλώσεως τῷ Θεῷ φαμὲν, κατὰ ποῖον ἀνδροφονοῦμεν λόγον;

[63] Ep. 22. [al. 13.] ad Eustoch.

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crime in woman, 'drinking of barrenness, and murdering of infants before they were born.' And it was a crime which the old Roman law punished with banishment[64], and sometimes with death: as Tryphonius[65] the lawyer observes out of Tully; though Tertullian complains that these laws were very much neglected and contemned. However, we see in the Christian Church this sort of murder was reckoned a very heinous crime by all writers, and punished with great severity by the canons against wilful murder in the Church.

The punishment of parricide.

5. Indeed, this sort of murder was one species of parricide, which included not only the murder of parents, but of children and other relations, to whom men were bound by natural affection. And this had a noted and peculiar punishment among the old Romans, which was to tie up the parricide in a sack with a serpent, an ape, a cock, and a dog, and throw them all alive into the sea; of which Gothofred will furnish the curious reader with great variety of instances out of the old Roman laws and writers. The *Lex Pompeia* changed this punishment into that of the sword, or burning, or throwing to wild beasts. But Constantine reduced the ancient punishment; and from his law[66], which I shall transcribe, we may take the account and description of it. 'If any one hasten the fate of his parent, or son, or any the like relation, which goes under the name of parricide, whether he attempt it privately or publicly,

de Virginit. c. 5. (t. 1. p. 96 a.)... Aliæ præbibunt sterilitatem, et necdum sati hominis homicidium faciunt. [Vallarsius in loc. ad voc. *præbibunt*. Ad hunc modum veteres membranæ tum a nobis, tum ab episcopo Reatino inspectæ, a quibus tantum Cistercienses variant, quæ *bibunt* et *satis hominibus* habent. Sed vitiato prorsus codice usus est Editor Benedictinus qui *præbent* pro *præbibunt*, et *nati hominis* pro *sati* legit, cum palam constet, eas hic Hieronymum insectari, quæ, ne conciperent de scelere, pharmacum aliquod præbibebant. Ed.]

[64] Digest. l. 48. tit. 8. ad Leg. Cornel. de Sicar. leg. 8. (t. 3. p. 1471.) Si mulierem visceribus suis vim intulisse, quo partum abigeret, constiterit: eam in exsilium præses provinciæ exiget.—It. l. 47. tit. 11. de Extraordinar. Criminibus, leg. 4. (t. 3. p. 1386.) Divus Severus et Antoninus rescripserunt, eam quæ data opera partum abegit, [i. e. abortivum fecit, vid. marg.] a præside in temporale exsilium dandam.

[65] Digest. l. 48. tit. 19. leg. 39. (t. 3. p. 1559.) Cicero in oratione pro Cluentio Avito scripsit, Milesiam quandam mulierem, cum esset in Asia, quod, ab heredibus secundis accepta pecunia, partum sibi medicamentis ipsa abegisset, rei capitalis esse damnatam.

[66] Cod. Theod. l. 9. tit. 15. de Parricidio, leg. 1. (t. 3. p. 112.) Si quis in parentis, aut filii, aut omnino affectionis ejus, quæ nuncupatione parricidii continetur, fata properaverit, sive clam sive palam id fuerit

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he shall not be punished with the sword, or with fire, or with any other common death, but be sewed up in a sack with serpents and other beasts, and be cast into the sea or a river, as the nature of the place will admit: that he may be deprived of the use of all the elements as long as he remains in being; that he may have neither air to breathe in whilst he lives, nor earth to receive him when he is dead.' This was the punishment of such as slew father or mother, or son or daughter, or any such relation in the direct line: but if it was any other relation, then only the common death of murderers was inflicted on them, as we learn from Justinian's Institutes[67] and his Code[68], where this matter is determined. Now the Church having no power of the sword, could make no such distinction; but punished both sorts in the same way, with the spiritual censure of excommunication.

Of self-murder.

6. And so she treated all those who laid violent hands upon themselves, who were known by the common name of *biathanati*, or *self-murderers*. Because this was a crime that could have no penance imposed upon it, she showed her just resentment of the fact, by denying the criminals the honour and solemnity of a Christian burial, and letting them lie excommunicate and deprived of all memorial in her prayers after death. 'If any one,' says the first Council of Braga[69], 'bring himself to a violent end, either by sword, or poison, or a precipice, or an halter, or any other way, no commemoration shall be made of him in the oblation, nor shall his body be carried to the

enisus, neque gladio, neque ignibus, neque ulla alia pœna solemni subjugetur, sed insutus culeo, et inter ejus ferales angustias comprehensus, serpentum contuberniis misceatur: et, ut regionis qualitas tulerit, vel in vicinum mare, vel in amnem projiciatur: ut omni elementorum usu vivus carere incipiat: ut ei cœlum superstiti, terra mortuo auferatur. —Vid. Gothofr. in loc. (ad calc. p. ejusd.) Quod prius igitur attinet, &c.

[67] L. 4. tit. 18. de Publicis Judiciis, n. 6. (t. 5. p. 588. sub fin.) Si quis autem alias, quam cognatione vel affinitate conjunctas sibi personas necaverit, pœnam legis Corneliæ de sicariis sustinebit.

[68] L. 9. tit. 17. De his qui parentes vel liberos occiderunt, leg. 1. (t. 4. p. 2371.) In the same words as the citation of Cod. Theod. l. 9. tit. 15. leg. 1., at note 66, preceding.

[69] C. 34. [al. Bracar. 2. c. 16.] (t. 5. p. 841 e.) Placuit, ut hi, qui aut per ferrum, aut per venenum, aut per præcipitium, aut suspendium, aut quolibet modo, violentam sibi ipsis inferunt mortem, nulla pro illis in oblatione commemoratio fiat, neque cum psalmis ad sepulturam eorum corpora [al. cadavera] deducantur... Similiter et de his placuit fieri, qui pro suis sceleribus puniuntur.

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grave with the usual psalmody. And they who suffer death for their crimes, shall be treated after the same manner.' The reason of treating both these sorts of men in this manner was because they were accessory to their own deaths; either directly, by offering violence to their own lives; or indirectly, by committing such capital crimes as brought them in the course of justice to an untimely end. Both the Greeks and Latins style them *biothanati*, or *biathanati*[70], from offering *violence* to themselves, or coming to *a violent death*. And Cassian[71] particularly notes the discipline of the Church then used toward such after death, speaking of the case of one Hero, an Egyptian monk, whom Satan, under the disguise of a good angel, had tempted to throw himself into a deep well, upon presumption that no harm could befal him for the great merit of his labours and virtues: for which fact, he says, Paphnutius the abbot could hardly be prevailed upon not to reckon him among the *biothanati*, or *self-murderers*, and deny him the privilege of being mentioned in the oblation for those that were at rest in the Lord. Which is sufficient to show us the manner of treating such in the ancient discipline of the Church.

Of dismembering the body.

7. It was also reckoned a species or lower degree of this crime, for any one to disfigure his own body, by cutting off any member or part thereof, without just reason to engage him so to do. The canons[72] forbad any such to be ordained, as men who were in effect self-murderers, and enemies of the workmanship of God, as has been shown at large in another place[73]. What is further to be noted here is, that this discipline extended to laymen as well as clergymen. For one of the Apostolical Canons[74] orders, that a layman, who dismembers himself, shall be debarred the communion for three years,

[70] [Or *Biæothanati*: See b. 1. ch. 2. s. 8. v. 1. p. 19. nn. 4, 5. Ed.]

[71] Collat. 2. c. 5. (p. 240.)...Vix a presbytero abbate Pafnutio potuit obtineri, ut non inter biothanatos reputatus etiam memoria et oblatione pausantium judicaretur indignus.

[72] Apost. 21. [al. 22.] (Cotel. [c. 17.] v. 1. p. 440.) .... Ὁ ἑαυτὸν ἀκρωτηριάσας, μὴ γινέσθω κληρικός· αὐτοφόντης [al. αὐτοφονευτὴς] γάρ ἐστιν καὶ τῆς τοῦ Θεοῦ δημιουργίας ἐχθρός.—C. Nicæn. c. 1. (t. 2. p. 29 a.) Εἴ τις ὑγιαίνων ἑαυτὸν ἐξέτεμε, τοῦτον καὶ ἐν τῷ κλήρῳ ἐξεταζόμενον πεπαῦσθαι προσήκει· καὶ ἐκ τοῦ δεῦρο μηδένα τῶν τοιούτων χρῆναι προσάγεσθαι.

[73] B. 4. ch. 3. s. 9. v. 2. p. 45.

[74] C. 23. [al. 24.] (Cotel. [c. 17.] ibid.) Λαϊκὸς ἑαυτὸν ἀκρωτηριάσας ἀφοριζέσθω ἔτη τρία· ἐπίβουλος γάρ ἐστιν τῆς ἑαυτοῦ ζωῆς.

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because he insidiously makes an attempt upon his own life. But if men were either born with a natural defect, or the barbarity of the persecutors, or the necessity of a disease, deprived them of any member, in order to effect the cure of the body and save the whole; in all these cases there was no crime, because the thing was involuntary; in which cases the law itself made an exception, and freed men from incurring the censures of the Church, as may be seen in the Nicene Canons[75], which particularly mention these as excepted cases. I only observe one thing further out of the laws of Constantine, that he had so great a regard to the face, as the image of the Divine Majesty in all human bodies whatsoever, that he would not suffer any mark of infamy to be set upon it, to stigmatize the greatest criminals. For, whereas by the old Roman laws notorious criminals might be branded in the forehead, to make their offences more infamous and public, Constantine by one of his first laws[76] cancelled and revoked this custom, ordering 'that whatever criminal was condemned either to fight with wild beasts, or dig in the mines, he should not be stigmatized in the face, but only in the hands or legs, that the face, which was formed after the image of the Divine Majesty and Beauty, might not be disfigured.' Which certainly was intended piously by Constantine, as a just caution to restrain men from offering violence to their own bodies, which were created after the image and similitude of God in some measure, though that likeness was more visibly seen in the original perfections of the soul.

Of involuntary murder by chance, or manslaughter.

8. All these cases respect such actions as have some tendency toward voluntary murder. Besides which the Church allotted sometimes a proportionable punishment to accidental and involuntary murder, though the Civil Law took little or no notice of it. For by the old Roman and Christian laws[77], a master

[75] C. 1. See before, b. 4. ch. 3. s. 9. v. 2. p. 46. n. 70.

[76] Cod. Theod. l. 9. tit. 40. de Pœnis, leg. 2. (t. 3. p. 293.) Si quis in ludum fuerit, vel in metallum, pro criminum deprehensorum qualitate, damnatus, minime in ejus facie scribatur: dum et in manibus et in suris possit pœna damnationis una [sub]scriptione [al. inscriptione] comprehendi: quo facies, quæ ad similitudinem pulchritudinis cœlestis est figurata, minime maculetur.

[77] Vid. Cod. Theod. l. 9. tit. 12. de Emendatione servorum, leg. 1. (ibid. p. 79.) Si virgis aut loris servum dominus afflixerit, aut custodiæ causa in vincula conjecerit, dierum distinctione sive interpretatione depulsa, nullum criminis metum

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was allowed to punish and correct his slave with great severity: and if in that correction the slave chanced to die, no action of murder could be brought against the master, unless it appeared that he used some weapon or fraud in his punishment that tended directly to kill him. But notwithstanding this, the ecclesiastical law, having a more tender regard even to the life of slaves, took cognizance of such cruelties, and obliged the actors to a certain term of penance, though the murder was only casual, and not directly intended. To this purpose it is decreed in the Council of Eliberis[78], 'that if any mistress in the heat of her anger so scourge her slave, that the slave die within three days; whereas it might be uncertain whether it was a voluntary or a chance murder; if it was a voluntary murder, she was to do penance seven years: if casual, only five years:' and all the favour that was allowed in this case was, 'that, if sickness seized her, she might be admitted to communion sooner.' We find a like decree in the discipline of the French Church, made by the Council of Epone[79], anno 517, 'that if any one put his slave to death without a legal trial before the judge, he should expiate his murder by excommunication for two years.' And it is remarked of Cæsarius Arelatensis by

mortuo servo sustineat. Nec vero immoderate suo jure utatur; sed tunc reus homicidii sit, si voluntate eum vel ictu fustis aut lapidis occiderit, vel certe telo usus letale vulnus inflixerit; aut suspendi laqueo præceperit; vel jussione tetra præcipitandum esse mandaverit; aut veneni virus infuderit; vel dilaniaverit pœnis publicis corpus, ferarum vestigiis latera persecando, vel exurendo admotis ignibus membra; aut tabescentes artus, atro sanguine permixta sanie defluentes, prope in ipsis adegerit cruciatibus vitam linquere, sævitia immanium barbarorum.—Leg. 2. Constant. (ibid. p. 80.) Quoties verbera dominorum talis casus servorum comitabitur, ut moriantur, culpa nudi sunt, qui, dum pessima corrigunt, meliora suis acquirere vernaculis voluerunt. Nam requiri in hujusmodi facto volumus, in quo interest domini incolume juris proprii habere mancipium, utrum voluntate occidendi hominis, an vero simpliciter facta castigatio videatur: toties etenim dominum non placet morte servi reum homicidii pronuntiari, quoties simplicibus quæstionibus domesticam exerceat potestatem. Si quando igitur servi plagarum correctione, imminente fatali necessitate, rebus humanis excedunt, nullam metuant domini quæstionem.

[78] C. 5. (t. 1. p. 971 b.) Si qua domina furore zeli accensa flagris verberaverit ancillam suam, ita ut intra tertium diem animam cum cruciatu effundat; eo quod incertum sit, voluntate an casu occiderit; si voluntate, post septem annos; si casu, post quinquennii tempora, acta legitima pœnitentia, ad communionem placuit admitti... Quod si infra [al. intra] tempora constituta fuerit infirmata, accipiat communionem.

[79] C. 34. (t. 4. p. 1580 d.) Si quis servum proprium sine conscientia judicis occiderit, excommunicatione biennii effusionem sanguinis expiabit.

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the author of his Life[80], 'that he was used to protest to the prefects of the Church, who had then power to inflict corporal punishment, that if they scourged any one to an immoderate degree, so as that he died under his stripes, they should be held guilty of murder.' Nay, so tender was the Church in this point of shedding man's blood, that she would not ordinarily allow any soldier to be ordained to any sacred office of presbyter or deacon; nor suffer her bishops to sit as judges in capital causes, where they might be concerned to give sentence in cases of blood: as I have had occasion to show more at large in their proper places[81], to which I refer the reader. Among the Apostolical Canons, there is one[82] that orders, 'that if any clergyman in a brawl or scuffle smite another, so as to kill him, though it were by the first blow, he shall be deposed; if a layman, he shall be cast out of communion:' and St. Basil's Canons[83] impose eleven years' penance upon all voluntary murderers whatsoever.

False witness against any man's life reputed murder.

9. Neither was it only actual murder which they thus censured, but all actions that had any direct or immediate tendency towards it; as, bearing false witness against a man's life. For, as Lactantius[84] well expresses it, 'there is no difference between killing a man with the sword or with the tongue: it is murder still in either species, and a violation of God's law against invading the life of man, which admits of no exception.' And therefore the Civil Law[85] appointed the

[80] Cyprianus Gallus, s. Tolonensis, c. 11. ap. Surium, 27 Aug. (p. 947 im.) Contestabatur ecclesiæ præfectos, si quis juberet quempiam diutius flagellari, et illa verbera illi mortem afferrent, ut is homicidii reum se sciret.

[81] B. 4. ch. 4. s. 1. v. 1. p. 54., and b. 11. ch. 7. s. 4. v. 3. p. 124.

[82] C. 66. [al. 64.] (Cotel. [c. 58.] v. 1. p. 446.) *Εἴ τις κληρικὸς ἐν μάχῃ τινὰ κρούσας, καὶ ἀπὸ τοῦ ἑνὸς κρούσματος ἀποκτείνῃ, καθαιρείσθω, διὰ τὴν προπέτειαν αὐτοῦ· ἐὰν* [al. *εἰ*] *δὲ λαϊκὸς ᾖ* [al. *εἴη*], *ἀφοριζέσθω.*

[83] C. 57. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1748 e.) *Ὁ ἀκουσίως φονεύσας ἐν δέκα ἔτεσιν ἀκοινώνητος ἔσται τῶν ἁγιασμάτων. Οἰκονομηθήσεται δὲ ἐπ' αὐτῷ τὰ δέκα ἔτη οὕτω· δύο μὲν ἔτη προσκλαύσει, τρία δὲ ἔτη ἐν ἀκροωμένοις διατελέσει· τέσσαρσιν ὑποπίπτων· καὶ ἐνιαυτῷ συσταθήσεται μόνον· καὶ τὸ ἑξῆς εἰς τὰ ἅγια δεχθήσεται.*

[84] Instit. l. 6. c. 20. (t. 1. p. 491.) .... Neque vero accusare quenquam crimine capitali, quia nihil distat, utrum ferro an verbo potius occidas, quoniam occisio ipsa prohibetur, &c.

[85] Cod. Theod. l. 9. tit. 1. de Accusationibus, leg. 11. (t. 3. p. 15.) Qui alterius famam, fortunas, caput denique et sanguinem in judicium devocaverit, sciat sibi impendere congruam pœnam, si quod intenderit non probaverit.—Leg. 19. (ibid. p. 24.).... Nec impunitam fore noverit licentiam mentiendi, cum calumniantes ad vindictam poscat similitudo supplicii.

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punishment of retaliation to be inflicted on every false accuser, that if any one called another man's credit, or fortune, or life, or blood, into question in judgment, and could not make out the crime alleged against him, he should suffer the same penalty that he intended to bring upon the other. And no one could formally implead another at law till he had bound himself to this condition, which the law terms[86] *vinculum inscriptionis, the bond of inscription.* Now though the ecclesiastical law could not inflict the punishment of retaliation for false witness against any man's life; yet all false testimony being a crime punishable with excommunication, as we shall see more fully under the punishment of sins against the Ninth Commandment, we may be sure such false testimony as tended directly to deprive men of their lives, must be reputed by the Church among the highest species both of calumny and murder; and consequently bring them under all the penalties[87] that were due to those crimes in any degree whatsoever.

Informers against the brethren in time of persecution treated as murderers.

10. Yea, a bare information, or discovery of the names of the brethren to the Heathen magistrates, forasmuch as that in times of difficulty and persecution might endanger their lives, was justly reputed and censured as murder likewise. The first Council of Arles[88] orders, 'that if any such informers were found among the clergy, and convicted from the public acts that they had betrayed either the Holy Scriptures, or the sacred utensils, or the names of their brethren to the Heathen, they should be degraded from their orders.' And the Council of Eliberis[89] goes a little further, and determines, 'that if any

[86] Leg. 14. (ibid. p. 19.).... Non prius cujuscunque caput accusatione pulset, quam vinculo legis astrictus, pari cœperit pœnæ conditione jurgare, &c.—Et leg. 19. (p. 24.)... Vinculum inscriptionis accipiat, &c. —Vid. Leon. Novel. 77. (ad calc. Corp. Jur. Civ. Ed. Amstel. 1663. t. 2. p. 265.) *Θεσπίζομεν τοίνυν, τὸν τοιαῦτα τινὰ πλαστογραφήσαντα, δι' ὧν τὸ πλαστογράφημα ἰσχὺν λαμβάνει, θανάτῳ ὑπάγειν τὸν καθ' οὗ συνεπλάσθη, αὐτὸν, παραδιδόμενον τῇ τιμωρίᾳ, ἣν καθ' ἑτέρου ἐσκέψατο παλαμήσασθαι, ἀποτέμνεσθαι.*

[87] C. 74. (t. 1. p. 978 c.) Falsus testis, prout est crimen, abstinebitur: si tamen non fuerit mortale, quod objecit, et probaverit [al. exprobaverit], quod non tacuerit, biennii tempore abstineatur: si autem non probaverit conventui clericorum, placuit per quinquennium abstineri.

[88] C. 13. (ibid. p. 1428 d.) De his qui Scripturas sanctas tradidisse dicuntur, vel vasa Dominica, vel nomina fratrum suorum, placuit nobis, ut quicunque eorum in actis publicis fuerit detectus, non verbis nudis, ab ordine cleri amoveatur.

[89] C. 73. (ibid. p. 978 b.) Delator si quis exstiterit fidelis, et per delationem ejus aliquis fuerit proscriptus

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Christian informed against his brethren, so as that any one was proscribed or slain upon his information, he should not be received into communion at the last, or not till his last hour, as different copies read it.'

Exposing of infants reputed murder.

11. Another sort of interpretative murder was the exposing of infants, against which the Ancients commonly declaim with great vehemency in the practice of the Heathen. 'You accuse us,' says Tertullian [90], 'of murdering infants; but let me turn to your people, and appeal to their consciences, and then how many may I find among those that stand about us, and thirst after Christian blood; nay, among those just and severe judges that condemn us, who kill their children as soon as they are born, or else expose them to cold and famine and dogs? You expose your children to the mercy of strangers and the next comers, that will take pity on them and adopt them more kindly for their own children.' The same charge is brought against them by Minucius Felix [91], that they exposed their children, as soon as they were born, to wild beasts and birds of prey. Athenagoras [92] says expressly, 'all such are parricides or murderers of their children.' And Lactantius [93] a little more largely inveighs against them upon the same foundation. 'They pretended,' he says, 'by a sort of false piety, to expose

vel interfectus, placuit eum nec in fine [al. non nisi in fine] accipere communionem.—Conf. c. 74. See above, n. 87.

[90] Apol. c. 9. (p. 9 c.) Quot vultis ex his circumstantibus et in Christianorum sanguinem hiantibus, ex ipsis etiam vobis justissimis et severissimis in nos præsidibus apud conscientias pulsem, qui natos sibi liberos enecent? Siquidem et de genere necis differt, utique crudelius in aqua spiritum extorquetis, aut frigori et fami et canibus exponitis.... Filios exponitis suscipiendos ab aliqua prætereunte misericordia extranea, vel adoptandos melioribus parentibus emancipatis.—Conf. Ad Nation. l. 1. c. 16. (p. 51 a.) .... Infantes vestros alienæ misericordiæ exponitis, aut in adoptionem melioribus parentibus, &c.

[91] Octav. p. 90. See before, n. 61, preceding.

[92] Legat. (ad calc. Just. Mart. p. 38 d.) Καὶ μὴ ἐκτιθέναι μὲν τὸ γεννηθὲν, ὡς τῶν ἐκτιθέντων τεκνοκτονούντων, πάλιν δὲ τὸ τραφὲν ἀναιρεῖν.

[93] Instit. l. 6. c. 20. (t. 1. p. 491.) Quid illi, quos falsa pietas cogit exponere? Non [al. num] possunt innocentes existimari, qui viscera sua in prædam canibus objiciunt, et, quantum in ipsis est, crudelius necant, quam si strangulassent. [?] Quis dubitet, quin impius sit, qui alienæ misericordiæ locum non tribuit? qui etiamsi contingat id, quod voluit, ut alatur, addixit certe sanguinem suum vel ad servitutem vel ad lupanar. Quæ autem possint, vel soleant accidere in utroque sexu per errorem, quis non intelligit? quis ignorat? Quod vel unius Œdipodis declarat exemplum, duplici scelere confusum.... Tam igitur nefarium est exponere, quam necare.

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them only to keep them from starving, because they were poor and not able to maintain them; but they cannot be deemed innocent, who cast their own bowels as a prey to dogs, and, as much as in them lies, kill them more cruelly than if they strangled them. Who can question the impiety of him, who leaves no room for others to show mercy? But admit that he attains his end, which he pretends, that his child is thereby nourished and brought up; yet doubtless he condemns his own blood either to slavery or the stews; of which there were many examples in both sexes.' Therefore he concludes, 'that for men to expose their children was the same base and villainous action as to kill them.' And whereas men were apt to complain of their poverty, and pretend they were not able to bring up many children; he not only answers this from considerations of Providence, in whose power the fortunes and possessions of all men are, to make rich men poor and poor men rich; but is also thought by his prudent advice to have induced Constantine to enact those two excellent and charitable laws, still exstant in the Theodosian Code[94], whereby it is provided by his great munificence in several parts of the empire, 'that poor parents who had numerous families, which they could not maintain, should have relief out of the public revenues of the empire; that they might be under no temptation either to expose, or kill, or sell, or oppignorate and enslave their children; of which there had been so great complaints under the former reigns of Heathenism.'

Constantine and Honorius added two other laws[95] to these, in favour of such as took care of exposed children, 'that parents should have no right to claim them again, nor accuse those of theft or plagiary who showed mercy on those whom, they ex-

[94] L. 11. tit. 27. de Alimentis, &c. legg. 1, 2. See before, ch. 9. s. 1. n. 2, preceding.

[95] Ibid. l. 5. tit. 7. de Expositis, leg. 1. (t. 1. p. 445.) Quicunque puerum vel puellam, projectam de domo, patris vel domini voluntate scientiaque collegerit, ac suis alimentis ad robur provexerit, eundem retineat, sub eodem statu, quem apud se recollectum voluerit agitare, hoc est, sive filium, sive servum eum esse maluerit; omni repetitionis inquietudine penitus submovenda eorum, qui servos aut liberos propria voluntate domo recens natos abjecerint.—Leg. 2. (p. 447.) Nullum dominis vel patronis repetendi aditum relinquimus, si expositos quodammodo ad mortem voluntas misericordiæ amica collegerit: nec enim dicere suum poterit, quem pereuntem contempsit: si modo testes episcopalis subscriptio fuerit subsecuta, de qua nulla penitus ad securitatem possit esse cunctatio.

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posed to death, and by their neglect suffered to perish; provided only that the collectors of such children made evidence before the bishop that they were really exposed and deserted.' And in this case the ecclesiastical laws concurred with the secular, adding the penalty of excommunication to be inflicted on all parents, who thus proved themselves guilty of murdering their children. For so the canons expressly word it. The Council of Vaison first prescribes the method of ascertaining such children to the right and possession of those, who became their foster-fathers, according to the tenour of the imperial laws; and then pronounces those who exposed them guilty of murder by their own confession. 'A clamour,' says the Council[96], 'is made on all sides, and complaint brought before us concerning exposed children, that they are now no longer exposed to the mercy of Christians, but to be devoured by dogs, because every one refuses to take them up, for fear of prosecution from false accusers: we therefore decree, that according to the laws of pious emperors and princes, whoever takes up an exposed child, shall make testimony thereof unto the Church, and the minister on the Lord's-day shall publish it at the altar, that if any one owns it within ten days, he may receive it again; giving a recompence to the finder for his charitable care for that term, or letting him keep it for ever as his own possession.' But the next canon[97] adds, 'that if any one, after this legal form of proceeding has been observed in the case, pretend to claim the exposed infant, or accuse the finder as a plagiary or man-stealer, he himself shall be punished as a murderer by the censures of the Church.'

All which manifestly proves, that in the account of conscience and the ancient discipline, the parent, who deserts his infant, and leaves it defenceless to the injuries of fortune, or

[96] Vasens. 1. [al. 2.] c. 9. (t. 3. p. 1459 a.) De expositis, quia conclamatur ab omnibus, querela processit, eos non misericordiæ jam, sed canibus exponi, quos colligere calumniarum [al. calumniatorum] metu, quamvis præceptis misericordiæ inflexa, mens humana detrectet; id servandum visum est, ut, secundum statuta fidelissimorum piissimorumque Augustorum et principum, quisquis expositum colligit, ecclesiam contestetur, &c.

[97] C. 10. (ibid. b.) Si quis ... expositorum hoc ordine collectorum repetitor vel calumniator exstiterit, ut homicida habendus est, et ecclesiastica districtione damnabitur [al. feriatur].—See C. Arelatens. 2. c. 32. (t. 4. p. 1014 e.) where the same things are repeated.

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want, or the weather, or wild beasts, is a real murderer, as doing that in consequence of which murder necessarily ensues, unless some favourable providence interposes to prevent it.

If a virgin defloured kills herself for grief, the corrupter is reputed guilty of the murder.

12. For the same reason some canons appointed all accessories to murder to do the same penance as the murderers themselves. The Council of Ancyra[98] puts a special case of this nature: 'A man that is espoused to a woman deflours her sister, and afterward marries the other: she that is so defiled hangs herself for grief:' the man, as accessory to the murder, is ordered 'to do ten years' penance for his crime, before he is allowed to appear among the co-standers at the communion.'

Lanistæ, or *fencing-masters*, reputed accessories to murder, and their calling condemned.

13. The case of the *lanistæ*, or *masters of fencing*, was much of the same nature. Their art in preparing gladiators for the theatre was always reputed a scandalous trade; being, in effect, no better than teaching men to murder and butcher one another; and therefore the Church would never allow it as a lawful profession. Tertullian[99] says expressly, 'that the prohibition of murder showed there was no place for fencers in the Church: for they were impleaded guilty of shedding that blood, which they taught others to shed.' The Author of the Constitutions[1] puts gladiators in the number of those who were to be rejected from baptism. And Constantine prohibited the art itself as unchristian, ordering[2] such criminals as were used to be condemned to fight for their lives upon the stage, rather to be sent to the mines, that they might suffer punishment without blood. For though in the beginning of his reign he allowed it to be used as a punishment for some crimes: as in the case of plagiary or man-stealing, which they that were

[98] C. 26. (t. 1. p. 1464 e.) *Μνηστευσάμενός τις κόρην, προσεφθάρη τῇ ἀδελφῇ αὐτῆς, ὡς καὶ ἐπιφορέσαι αὐτήν· ἔγημε δὲ τὴν μνηστὴν μετὰ ταῦτα· ἡ δὲ φθαρεῖσα ἀπήγξατο· οἱ συνειδότες ἐκελεύσθησαν ἐν δεκαετίᾳ δεχθῆναι εἰς τοὺς συνεστῶτας κατὰ τοὺς ὡρισμένους βαθμούς.*

[99] De Idolol. c. 11. (p. 91 d.) Sic et homicidii interdictio ostendit mihi lanistam quoque ab ecclesia arceri: nec per se non faciet, quod faciendum aliis subministrat.

[1] L. 8. c. 32. (Cotel. v. 1. p. 412.) *Τῶν ἐπὶ σκηνῆς ἐάν τις προσείη ἀνὴρ, ἢ γυνὴ, ἢ ἡνίοχος, ἢ μονομάχος,..... ἢ πανσάσθωσαν ἢ ἀποβαλλέσθωσαν.*

[2] Vid. Cod. Theod. l. 15. tit. 12. de Gladiatoribus, leg. 1. (t. 5. p. 395.) Cruenta spectacula in otio civili et domestica quiete non placent: quapropter, qui omnino gladiatores esse prohibemus, eos, qui forte delictorum causa hanc conditionem atque sententiam mereri consueverant, metallo magis facies inservire, ut sine sanguine suorum scelerum pœnas agnoscant.

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guilty of were condemned[3] to fight for their lives with wild beasts or one another: yet afterwards he seems to have revoked this also. And Valentinian absolutely forbade[4] any Christian or any Palatine soldier to be condemned to this punishment. Nay, some of the wiser Heathens always abhorred and declared against it. And therefore there was more reason to prohibit the whole art and practice of gladiators under the Christian institution, which Honorius the emperor[5] quite abolished and destroyed.

Spectators of the murders committed on the stage accounted accessories to murder also.

14. But the Christian laws and rules of the Church went a little further: they not only condemned the murders of the stage, but forbad any one to be a spectator of them, under the penalty of being reputed accessory to the murder. Cyprian[6], describing the impiety and barbarity of these inhuman games, elegantly styles all spectators of them *oculis parricidas, men*

[3] Ibid. l. 9. tit. 18. ad Legem Fabiam, leg. 1. (t. 3. p. 154.) Plagiarii, qui viventium filiorum miserandas infligunt parentibus orbitates, metalli pœna cum cæteris ante cognitis suppliciis tenebantur. Si quis tamen ejusmodi reus fuerit oblatus, posteaquam super crimine patuerit, servus quidem vel libertate donatus, bestiis primo quoque munere objiciatur; liber autem sub hac forma in ludum detur gladiatorium, ut antequam aliquid faciat, quo se defendere possit, gladio consumatur.

[4] Ibid. tit. 40. de Pœnis, leg. 8. (p. 299.) Quicunque Christianus sit in quolibet crimine deprehensus, ludo non adjudicetur. Quod si quisquam judicum fecerit, et ipse graviter notabitur, et officium ejus mulctæ maximæ subjacebit.—Leg. 11. (p. 302.) Neminem de numinis nostri sacrario prodeuntem arena suscipiat, lanista doceat, sæva meditatio et pugnatrix exerceat; multa siquidem possunt esse supplicia, quibus culpa plectatur.

[5] Vide Pagi, Crit. in Baron. an. 404. n. 5. [al. 4.] ex Prudentio contra Symmach. l. 2. (t. 2. p. 59.) Prudentius Honorium Romæ hoc anno positum cohortatur ad ludos gladiatorios Romæ penitus tollendos, votumque et preces pro iis tollendis apud principem interponit. Sic enim de virginibus agens scribit:

Quod genus ut sceleris jam nesciat aurea Roma,
Te precor, Ausonii dux augustissime regni,
Et tam triste sacrum jubeas, ut cætera, tolli.
Perspice: nonne vacat meriti locus iste paterni,
Quem tibi supplendum Deus et genitoris amica
Servavit pietas? soluane præmia tantæ
Virtutis caperet? Partem tibi, nate, reservo.
Dixit, et integrum decus intactumque reliquit.
Arripe dilatam tua, dux, in tempora famam,
Quodque patri superest, laudis successor habeto.
Ille urbem vetuit taurorum sanguine tingi;
Tu mortes miserorum hominum prohibeto litari.
Nullus in urbe cadat, cujus sit pœna voluptas.

[6] Ad Donat. p. 5. (p. 4.) Et in tam impiis spectaculis tamque diris et funestis, esse se non putant oculis parricidas.

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guilty of murder with their eyes; intimating, that no one could entertain himself with the pleasing sight of them without partaking in the guilt, and defiling his soul with the contagion of the murders committed in them. 'There is little difference,' says Athenagoras[7], 'between seeing such murders and committing them; and therefore we wholly abstain from the sight of them, lest any of their wickedness and defilement should cleave to us.' Lactantius[8], in his elegant and fluent way, declaims more copiously and vehemently against them: 'He that accounts it a pleasure,' says he, 'to see a man killed before his eyes, though it be a criminal condemned for his villainies, pollutes his conscience, as much as if he were both a spectator and partaker of any secret murder. And yet they call these things only games and diversions, wherein human blood is shed. So far are men forsaken of humanity, that they count it but sport to destroy men's lives or souls, being really more wicked and injurious than those very criminals, whose blood they make their diversion.' Upon this account, in the eye of the Church, to frequent these inhuman games was the same thing as to commit murder, and no man could associate with such company, and follow such diversions, but he was reputed to bid adieu to all humanity, piety, and justice, and to make himself partaker in all the guilt of those public murders.

Famishers of the poor and indigent reputed guilty of murder.

15. The charge of murder was also brought against those who denied the poor their necessary maintenance, and defrauded their indigent parents of their proper livelihood, suffering them to perish by famine or want, against the laws of piety and natural affection. The fourth Council of Carthage[9] upon this account terms those, who defrauded the Church of the oblations of the dead, *egentium necatores, murderers of the poor*, and, as such, orders them to be prosecuted to excommu-

[7] Legat. (p. 38 b.) Ἡμεῖς, πλησίον εἶναι τὸ ἰδεῖν τὸν φονευόμενον τοῦ ἀποκτεῖναι νομίζοντες, ἀπηγορεύσαμεν τὰς τοιαύτας θέας.

[8] Instit. l. 6. c. 20. (t. 1. p. 490.) Qui hominem, quamvis ob merita damnatum, in conspectu suo pro voluptate jugulari computat, conscientiam suam polluit, tam scilicet quam si homicidii, quod fit occulte, spectator et particeps fiat. Hos tamen ludos vocant, in quibus humanus sanguis effunditur. Adeo longe ab hominibus secessit humanitas, ut cum animas hominum interficiant, ludere se opinentur, nocentiores iis omnibus, quorum sanguinem voluptati habent.

[9] C. 95. (t. 2. p. 1207 b.) Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tanquam egentium necatores excommunicentur.

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nication. And Cyprian[10], speaking of the villainies of Novatus says, among other instances of his being guilty of parricide and murder,' such as causing his wife to miscarry by a kick on the belly, when she was great with child, 'he suffered his own father to starve and perish by famine, and left him unburied after death.' For which crimes he had certainly been expelled, not only from the presbytery, but from all communion with the Church, had not the difficult times of approaching persecution prevented the day of his trial, and given him opportunity to escape the condemnation that was due to him by the just discipline and censures of the Church. All these were reckoned guilty of murder, indirectly at least, as accessories and partakers in the sin, though their hands were not actually and directly engaged in shedding of blood.

And all those, by whose authority murder was committed.

16. But none were reputed more guilty of murder than they by whose authority it was committed: though the inferior instruments were not acquitted, yet the crime was chiefly laid to the charge of the principal authors. Therefore, as David was charged by Nathan with the murder of Uriah, though he was slain through the treachery of Joab by the sword of the children of Ammon, so Theodosius, when by his orders and authority seven thousand men were slaughtered at Thessalonica, was charged by St. Ambrose as the principal author of the murder, and according to the rules of discipline denied the communion of the Church, till he had made a suitable and reasonable satisfaction. For though, as Cyprian complains to his friend Donatus[11], under the Heathen emperors public murder was esteemed a virtue, which in private men was punished as a great crime; yet it was not so under the Christian institution, but there was a power to bring even emperors and princes under discipline for such public offences, as appears from the case of Theodosius now mentioned. And the case of the *munerarii*, that is, such Christian magistrates as exhibited the *munera*, or inhuman games, where men murdered one another upon the stage, is a further evidence of this power and prac-

[10] Ep. 49. [al. 52.] ad Cornel. p. 97. (p. 238.) Pater etiam ejus in vico fame mortuus, et ab eo in morte postmodum nec sepultus. Uterus uxoris calce percussus, et abortione properante in parricidium partus expressus.

[11] P. 5. (p. 4.) Homicidium cum admittunt singuli crimen est; virtus vocatur cum publice geritur.

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tice: for the canons of the Church order all such magistrates to be excommunicated[12], as contributing by their authority and expenses both to idolatry and murder. So that murder, in whatever species it appeared, or by whatever persons it was committed, was always reputed a crime of the first magnitude, exposing men to the utmost severity of ecclesiastical censure.

Enmity and strife and contention, punished as lower degrees of murder.

17. And it must be added, that all open enmity and quarrelling, strife, envy, anger, and contention, professed malice and hatred, were punished with excommunication, as tendencies toward this great sin and lower degrees of murder. St. John says, "He that hateth his brother is a murderer, and no murderer hath eternal life abiding in him." [1 John 3, 15.] Our Saviour also declares, "That he that is angry with his brother without a cause shall be in danger of the judgment; and whosoever shall say to his brother, Raca! shall be in danger of the council: but whosoever shall say, Thou fool! shall be in danger of hell-fire." [Matth. 5, 22.] Now agreeably to these instructions, the Church, to prevent or correct all tendencies toward the great sin of murder, laid proper restraints and penalties upon the unruly passions of men, whenever they discovered themselves in any visible acts of malice or hatred, and strife or contention. The communion was the great symbol of love and charity, and the covenant of peace and unity, and the great uniter of men's hearts and affections: therefore all who visibly wanted these necessary qualifications, were thought unworthy of that venerable mystery, and accordingly obliged by the discipline of the Church, till they were so qualified, to abstain from it. The fourth Council of Carthage made an order[13], 'that the oblations of such as were at enmity or open variance with their brethren, should neither be received into the treasury of the Church nor at the altar:' which was as much as to say, they should not communicate whilst they were in that condition. And the second Council of Arles[14] removes those from the privilege of joining with the assemblies of the Church

[12] See ch. 4. s. 8. p. 208.

[13] C. 93. (t. 2. p. 1207 b.) Oblationes dissidentium fratrum, neque in sacrario, neque in gazophylacio recipiantur.

[14] C. 31. [al. 50.] (t. 4. p. 1016 e.) Hi, qui publicis inter se odiis exardescunt, ab ecclesiasticis conventibus sunt removendi, donec ad pacem recurrant.

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who break forth into public hatreds and animosities one against another, until they are reconciled, and return to peace again. They that evil entreat their servants or slaves with stripes, famine, or hard bondage, are ordered to be refused communion by the rules of the Constitutions[15]: and Chrysostom[16] often warns the clergy, 'that they should admit no cruel or unmerciful man to the communion. For if they gave the eucharist wittingly to any such flagitious man, his blood would be required at their hands: though it be a general, though it be a consul, though it be him that wears the crown, restrain him, if he comes unworthily: thou hast greater power than he.' But this was to be understood of great and enormous violations of charity, expressing themselves in open and professed acts of cruelty; not of every lower degree of anger, especially rash and sudden anger, which, as I showed before[17], was to be cured by other methods, and not by the highest remedies of severity in the exercise of ecclesiastical censure.

These were the rules of discipline, whereby the Church proceeded in censuring and punishing the great sin of murder, with all its species and appendages, so far as it was either possible or proper to take notice of them: reserving the rest for the gentler methods of admonition and verbal correction, which in ordinary cases and lighter transgressions of this kind was sufficient for the amendment of the sinner.

CHAP. XI.

Of great transgressions against the Seventh Commandment, fornication, adultery, incest, &c.

1. Another sort of great crimes, which always made men liable to the severities of ecclesiastical discipline, were the sins

The punishment of fornication.

[15] L. 4. c. 6. [al. 5.] (Cotel. v. 1. p. 294.) *Φευκταῖοι δὲ αὐτῷ . . . οἱ τοῖς ἑαυτῶν οἰκέταις πονηρῶς χρώμενοι· πληγαῖς, φημι, καὶ λιμῷ καὶ κακοδουλίᾳ.*

[16] Hom. 83. [Bened. 82. al. 83.] in Matth. p. 705. (t. 7. p. 789 b.) *Μηδεὶς ἀπάνθρωπος προσίτω, μηδεὶς ὠμὸς καὶ ἀνελεής, μηδεὶς [ὅλως* Ben. et Sav.*] ἀκάθαρτος. Ταῦτα πρὸς ὑμᾶς τοὺς μεταλαμβάνοντας λέγω, καὶ πρὸς ὑμᾶς τοὺς διακονουμένους· . . . . . οὐ μικρὰ κόλασις ὑμῖν ἐστιν, εἰ συνειδότες τινὶ πονηρίαν συγχωρήσητε μετασχεῖν ταύτης τῆς τραπέζης· τὸ [γὰρ] αἷμα αὐτοῦ ἐκ τῶν χειρῶν ἐκζητηθήσεται τῶν ὑμετέρων. Κἂν στρατηγός τις ᾖ, κἂν ὕπαρχος, κἂν αὐτὸς ὁ τὸ διάδημα περικείμενος, ἀναξίως δὲ προσίῃ, κώλυσον, μείζονα ἐκείνου τὴν ἐξουσίαν ἔχεις.*

[17] Ch. 3. s. 14. p. 177.

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of uncleanness, or transgressions of the Seventh Commandment: such as fornication, adultery, ravishment, incest, polygamy, and all sorts of unnatural defilement with beasts or mankind, and all things leading or paving the way to such impurities, as rioting and intemperance, writing or reading lascivious books, acting or frequenting obscene stage-plays, allowing or maintaining harlots, or whatever of the like kind may be called making provision for the flesh to fulfil the lusts thereof.

To begin with simple fornication: the Heathen laws were so far from laying any effectual restraints upon it, that they not only allowed it with impunity, but many times encouraged it in the very sacred rites and mysteries of their gods, as the ancient Apologists often object against their religion: whereas the Christian religion laid great and severe penalties upon all such as, under the name of Christians, were found guilty of it. The Apostolical Canons[18], and those of Neocæsarea[19], forbid such ever to be received into holy orders, or command them to be suspended, if unwittingly ordained. The Council of Eliberis[20] suspends virgins who keep not their virginity a whole year from the communion; obliging them to marry those that defiled them: otherwise they are to undergo five years' solemn repentance; because, if they are corrupted by others, they become guilty of adultery, which, as we shall presently see, had a more severe punishment than simple fornication.

Of adultery.

2. For whereas St. Basil's Canons appoint seven years' penance for fornication only, they prescribe fifteen for adultery[21], and sometimes[22] double the number. The Council of

[18] C. 61. [al. 60.] (Cotel. [c. 53.] v. 1. p. 445.) Εἴ τις κατηγορία γένηται κατὰ πιστοῦ, πορνείας ἢ μοιχείας, ἢ ἄλλης τινὸς ἀπηγορευμένης πράξεως, καὶ ἐλεγχθῇ, εἰς κλῆρον μὴ προσαγέσθω.

[19] C. 9. (t. 1. p. 1481 e.) Πρεσβύτερος, ἐὰν προημαρτηκὼς σώματι προαχθῇ, καὶ ὁμολογήσῃ, ὅτι ἥμαρτε πρὸ τῆς χειροτονίας, μὴ προσφερέτω, μένων ἐν τοῖς λοιποῖς διὰ τὴν ἄλλην σπουδήν.

[20] C. 14. (ibid. p. 972 c.) Virgines, quæ virginitatem suam non custodierint, si eosdem, qui eas violaverunt, duxerint et tenuerint maritos, eo quod solas nuptias violaverint [nempe, non Deo dedicatæ, ut can. 13.] post annum sine pœnitentia reconciliari debebunt. Vel si alios cognoverint viros, eo quod mœchatæ sint, placuit, per quinquennii tempora, acta legitima pœnitentia, admitti eas ad communionem.

[21] C. 58. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1749 a.) Ὁ μοιχεύσας ἐν ιε' ἔτεσιν ἀκοινώνητος ἔσται τῶν ἁγιασμάτων, κ.τ.λ.—C. 59. (ibid. b.) Ὁ πόρνος ἐν ἑπτὰ ἔτεσιν ἀκοινώνητος ἔσται τῶν ἁγιασμάτων, κ. τ. λ.

[22] C. 7. [Oper. Basil. Ep. 188.] (CC. ibid. p. 1724 a.) Τοὺς δὲ ἐν τριάκοντα ἔτεσι μετανόησαντας ἐπὶ τῇ

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Ancyra[23] imposes seven years for adultery, but makes no express mention of fornication. The Council of Eliberis appoints five years'[24] penance for a single act of adultery, and ten[25] years if repeated: but if any continued in it all their lives, they were not to have the communion at their last hour. And in some of the African Churches before the time of St. Cyprian this was the common punishment for all adultery. For he says[26], 'Some of his predecessors refused the peace of the Church to all adulterers, and shut the door of repentance entirely against them; though it was otherwise in his time, when adulterers had a certain term of penance appointed them, after which they might be restored to the peace of the Church.' Whence Bishop Pearson[27] rightly reproves Albaspinæus for asserting that adulterers were never received into communion before the time of Cyprian. For Cyprian says expressly they were received to repentance in most Churches, though rejected by some: and it appears plainly from Tertullian, who lived before Cyprian, and wrote his book *De Pudicitia*, as a Montanist, against the Catholics for receiving adulterers to their communion. Yet in the case of the clergy the law continued still a little more severe. For by a rule of the Council of Eliberis[28], if a bishop, presbyter, or deacon was convicted of

ἀκαθαρσίᾳ, ἣν ἐν ἀγνοίᾳ ἔπραξαν, οὐκ ἀμφιβάλλειν ἡμᾶς προσῆκεν εἰς τὸ παραδέξασθαι.

[23] C. 20. (t. 1. p. 1464 b.) *Ἐάν τινος γυνὴ μοιχευθῇ, ἢ μοιχεύσῃ τις, ἐν ἑπτὰ ἔτεσι δοκεῖ αὐτὸν τοῦ τελείου τυχεῖν, κατὰ τοὺς βαθμοὺς τοὺς προάγοντας.*

[24] C. 69. (ibid. p. 977 e.) Si quis forte habens uxorem, semel fuerit lapsus, placuit eum quinquennium agere de ea re pœnitentiam.

[25] C. 64. (ibid. c.) Si qua mulier usque in finem mortis suæ cum alieno fuerit viro mœchata, placuit nec in fine dandam ei esse communionem. Si vero eum reliquerit, post decem annos recipi ad [al. accipiat] communionem, acta legitima pœnitentia.

[26] Ep. 52. [al. 55.] ad Antonian. p. 109. (p. 247.) Mœchis a nobis pœnitentia conceditur, et pax datur. Et quidem, &c.—See before, ch. 10. s. 2. p. 388. n. 48.

[27] Vindic. Ignat. l. 2. c. 8. (Cotel. v. 2. p. 378.) Sed nec illud verum est, quod Albaspinæus observat. Ante ætatem S. Cypriani etiam mœchi ad pœnitentiam admittebantur. Ita ipse testatur Epistola 52., *Et quidem apud antecessores nostros, &c.* .... Ab episcopis igitur Africanis per pœnitentiam recepti sunt mœchi ante ætatem Cypriani, adeoque ante Novatianos. Idque ab ecclesia factum narrat Cyprianus; nullum igitur tunc temporis in ecclesia Africana decretum exstitit de adulteris penitus a pœnitentia removendis, &c.

[28] C. 18. [al. 19.] (t. 1. p. 973 a.) Episcopi, presbyteri, et diacones, si in ministerio positi, detecti fuerint quod sint mœchati, placuit et propter scandalum, et propter nefandum [al. profanum] crimen, nec in fine eos communionem accipere debere.

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adultery, he was to be denied communion to the very last, as well for the greatness of the crime, as for the scandal he gave to the Church thereby.' And by another canon of the same Council[29], 'every clergyman, who knew his wife to be guilty of committing adultery, and did not presently put her away, was also to be denied communion to the very last: that they, who ought to be examples of good conversation, might not by their practice seem to show others the way to sin.' And the Council of Neocæsarea has a decree[30] of near affinity to this, 'that if a layman's wife be convicted of adultery, it shall render him incapable of orders: or, if after his ordination she commits adultery, he must dismiss her; under pain of degradation from his ministerial office if he retains her.'

The Civil Law both under the Heathen and Christian Emperors made this crime capital, as Gothofred[31] shows by various instances both out of the Code and the Pandects. And Constans, the son of Constantine, in particular appointed its punishment to be the same as that of parricide, which was burning alive, or drowning in a sack, with a serpent, an ape, a cock, and a dog tied up with the criminals. 'When adultery,' says he[32], 'is proved by manifest evidence, no dilatory appeal shall be allowed: but the judge is obliged to punish those, who are guilty

[29] C. 65. (ibid. p. 977 d.) Si cujus clerici uxor fuerit mœchata, et sciat eam maritus suus mœchari, et eam non statim projecerit, nec in fine accipiat communionem: ne ab his, qui exemplum bonæ conversationis esse debent, [ab eis] videantur magisteria scelerum procedere.

[30] C. 8. (ibid. p. 1481 d.) *Γυνή τινος μοιχευθεῖσα λαϊκοῦ ὄντος, ἐὰν ἐλεγχθῇ φανερῶς, ὁ τοιοῦτος εἰς ὑπηρεσίαν ἐλθεῖν οὐ δύναται. Ἐὰν δὲ καὶ μετὰ τὴν χειροτονίαν μοιχευθῇ, ὀφείλει ἀπολῦσαι αὐτήν. Ἐὰν δὲ συζῇ, οὐ δύναται ἔχεσθαι τῆς ἐγχειρισθείσης αὐτῇ ὑπηρεσίας.*

[31] In Cod. Theod. l. 9. tit. 36. Quorum appellationes, &c., leg. 4. (t. 4. p. 297. sect. ult.) Quod pœnæ ipsius atrocitatem attinet, magna profecto ea, cum culei et ignis pœna h. l. imponatur. Certe et antea Opilius Macilius adulterii reos vivos simul incendit junctis corporibus, teste Capitolino. Et Constantius ipse vivicomburii pœnam servo, qui rem cum domina habuisset, imposuit: *Sup. de mulierib. quæ se prop. serv.* At enim neque hæc pœna postea mansit: nam et sub Valentiniano Cethegus senator adulterii reus delatus cervice periit abscissa, ut testatur Am. Marcellinus, l. 28., qui idem scribit eadem pœna fœminas aliquot itidem ob idem crimen affectas tum temporis. Et sub Majoriano relegationis tantum, vel ad summum deportationis pœna cum bonorum confiscatione, jureque cædendi ejus si rediret, pœna statuta.

[32] Cod. Theod. (ibid. p. 295.) ... Ut manifestis probationibus adulterio probato frustratoria provocatio minime admittatur: cum pari similique ratione sacrilegos nuptiarum, tanquam manifestos parricidas, insuere culeo vivos, vel exurere, judicantem oporteat.

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of the sacrilegious violation of marriage, as manifest parricides, either by drowning them in a *culeus*, or *sack*, or burning them alive.' And this was one of those crimes to which the emperors at Easter would grant no indulgence[33], nor allow any appeal to be made from the judge to themselves in favour of the criminals, as appears not only from this law of Constans, but several others[34].

It may not be amiss also to observe out of one of the laws of Theodosius[35], that for a Christian man or woman to marry a Jew, was reputed the same thing as committing adultery, and made the offending party liable to the same punishment; because it was at least a spiritual adultery, and a sacrilegious prostitution of the members of Christ to the insolence and power of his greatest enemies. And indeed there is nothing that the Ancients[36] more generally condemn than this of Christians joining in marriage with Jews, or Heathens, or heretics, or any persons of a different religion; not because it was strictly and properly adultery, but because it was against the rule of the Apostle, which orders women to marry "only in the Lord," and therefore dangerous to the faith, by running themselves into temptation of changing their religion, either

[33] Cod. Theod. l. 9. tit. 38. de Indulgentiis Criminum, legg. 3, 4, 6, 7, 8. See before, ch. 4. s. 2. p. 197. n. 3., and ch. 10. s. 1. p. 387. n. 43.

[34] Ibid. l. 9. tit. 36. Quorum appellationes non recipiantur, legg. 1, 4, 7. See before, ch. 10. s. 1. p. 387. n. 44.

[35] Ibid. l. 9. tit. 7. ad Leg. Jul. de Adulteriis, leg. 5. (t. 3. p. 62.) Ne quis Christianam mulierem in matrimonium Judæus accipiat, neque Judææ Christianus conjugium sortiatur. Nam si quis aliquid hujusmodi admiserit, adulterii vicem commissi hujus crimen obtinebit.

[36] Ambros. de Abraham. l. 1. c. 9. (t. 1. p. 309 c. n. 84.) Cave, Christiane, Gentili aut Judæo filiam tuam tradere: cave, inquam, Gentilem aut Judæam, atque alienigenam, hoc est, hæreticam, et omnem alienam a fide tua uxorem accersas [al. arcessas] tibi.—Conf. Augustin. Ep. 234. [al. 255.] ad Rustic. (t. 2. p. 668 f.) Si enim tu quam certissime noveris, etiam si nostra absolutæ sit potestatis, quamlibet puellam in conjugium tradere, tradi a nobis Christianam nisi Christiano non posse: &c.—C. Eliber. c. 16. (t. 1. p. 972 d.) Hæretici si se transferre noluerint ad ecclesiam Catholicam, nec ipsis Catholicas dandas esse puellas: sed neque Judæis, neque hæreticis [al. ethnicis] dare placuit; eo quod nulla possit esse societas fideli cum infideli. Si contra interdictum fecerint parentes, abstineri [al. abstinere] per quinquennium placet.—C. Laodic. c. 10. (ibid. p. 1497 d.) Περὶ τοῦ, μὴ δεῖν τοὺς τῆς ἐκκλησίας ἀδιαφόρως πρὸς γάμου κοινωνίαν συνάπτειν τὰ ἑαυτῶν παιδία αἱρετικοῖς.—C. 31. (ibid. p. 1501 d.) Ὅτι οὐ δεῖ πρὸς πάντας αἱρετικοὺς ἐπιγαμίας ποιεῖν, ἢ διδόναι υἱοὺς, ἢ θυγατέρας· ἀλλὰ μᾶλλον λαμβάνειν, εἴγε ἐπαγγέλλοιντο Χριστιανοὶ γίνεσθαι.

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by perverting and corrupting the faith, or wholly deserting and apostatizing from it.

Of incest. 3. Another sort of uncleanness was committed by incestuous marriages, that is, when persons of near alliance, either by consanguinity or affinity, made marriages one with another, within the degrees prohibited by God in Scripture. As if a man married his father's wife, or his wife's daughter, or his brother's wife, or his wife's sister; which are cases in affinity, particularly mentioned in the Council of Auxerre[36] as prohibited cases. St. Basil[37] says, incest with a sister was to be punished with the same penance as murder, and all incestuous conjunction[38] as adultery. He that committed incest with an half-sister[39] was to do eleven years' penance; and he who committed incest with his son's wife[40] was to do the same. He who successively married two sisters[41] was to do the penance of an adulterer, which was fifteen years. And about all cases of this nature the Ancients were perfectly agreed. Herein especially the Christian morals exceeded the Heathen. Among the Persians it was allowed by law for the father to

[36] Cc. 27—30. (t. 5. p. 960 a, b.) Non licet, ut aliquis suam novercam accipiat uxorem. Non licet, ut filiam uxoris suæ quis accipiat. Non licet, ut relictam fratris sui quis in matrimonium ducat. Non licet, duas sorores, si una mortua fuerit, alteram in conjugium accipere.

[37] C. 67. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1352. [corrige 1752] a.) *Ἀδελφομιξία τὸν τοῦ φονέως χρόνον ἐξομολογήσεται.*

[38] C. 68. [Oper. Basil. ibid.] (CC. ibid. b.) *Ἡ τῆς ἀπειρημένης συγγενείας εἰς γάμον ἀνθρώπων σύστασις, εἰ φωραθείη, ὡς ἐν ἁμαρτήμασιν γεγενημένη* [al. *ἀνθρώπων γινομένη*] *τὰ τῶν μοιχῶν ἐπιτίμια δέξεται.*

[39] C. 75. [Oper. Basil. ibid.] (CC. ibid. p. 1753 b.) *Ὁ ἀδελφῇ ἰδίᾳ ἐκ πατρὸς ἢ ἐκ μητρὸς συμμιανθεὶς, εἰς οἶκον προσευχῆς μὴ ἐπιτρεπέσθω παρεῖναι, ἕως ἂν ἀποστῇ τῆς παρανόμου καὶ ἀθεμίτου πράξεως. Μετὰ δὲ τὸ ἐλθεῖν εἰς συναίσθησιν τῆς φοβερᾶς ἁμαρτίας ἐκείνης, τριετίαν προσκλαιέτω, τῇ θύρᾳ τῶν εὐκτηρίων οἴκων παρεστηκὼς, καὶ δεόμενος τοῦ λαοῦ εἰσιόντος ἐπὶ τὴν προσευχὴν, ὥστε ἕκαστον μετὰ συμπαθείας ὑπὲρ αὐτοῦ ἐκτενεῖς ποιεῖσθαι πρὸς τὸν Κύριον τὰς δεήσεις. Μετὰ δὲ τοῦτο ἄλλην τριετίαν εἰς ἀκρόασιν μόνην παραδεχθήτω, καὶ ἀκούων τῶν Γραφῶν* [al. *τῆς Γραφῆς*] *καὶ τῆς διδασκαλίας ἐκβαλλέσθω, καὶ μὴ καταξιούσθω προσευχῆς. Ἔπειτα εἴπερ μετὰ δακρύων ἐξεζήτησεν αὐτὴν, καὶ προσέπεσε τῷ Κυρίῳ μετὰ συντριμμοῦ καρδίας καὶ ταπεινώσεως ἰσχυρᾶς, διδόσθω αὐτῷ ὑπόπτωσις ἐν ἄλλοις τρισὶν ἔτεσι· καὶ οὕτως, ἐπειδὰν τοὺς καρποὺς τῆς μετανοίας ἀξίους ἐπιδείξηται, τῷ δεκάτῳ ἔτει εἰς τὴν τῶν πιστῶν εὐχὴν δεχθήτω, χωρὶς προσφορᾶς· καὶ δύο ἔτη συστὰς εἰς τὴν εὐχὴν τοῖς πιστοῖς, οὕτω λοιπὸν καταξιούσθω τῆς τοῦ ἀγαθοῦ κοινωνίας.*

[40] C. 76. [Oper. Basil. ibid.[(CC. ibid. d.) *Ὁ αὐτὸς τύπος καὶ περὶ τῶν τὰς νύμφας ἑαυτῶν λαμβανόντων.*

[41] C. 78. [Oper. Basil. ibid.] (CC. ibid. e.) *Ὁ δὲ αὐτὸς τύπος κρατείτω καὶ ἐπὶ τῶν τὰς δύο ἀδελφὰς λαμβανόντων εἰς συνοικέσιον, εἰ καὶ κατὰ διαφόρους χρόνους.*

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marry his own daughter, or a son his own mother or sister, as is observed by Origen[42]. Minucius[43] says the same of the Egyptians and Athenians; and Theodoret[44], speaking particularly of the Persians in his own time, says it was then a mark of honour and religion for their princes to marry their own mothers, or sisters, or daughters. And Gothofred[45] gives many instances among the Romans of men marrying their sister's daughters, and their brother's daughters, the latter of which was never forbidden by any of their laws, though the former had sometimes a restraint laid upon it. But Constantius made it a capital[46] crime for any one to marry his brother's or sister's daughter, which was abominable. He equally condemned[47] the marrying of two sisters, or a brother's wife, (though the Jewish law allowed the latter in a certain case,)

[42] Cont. Cels. l. 5. p. 248. (t. 1. p. 597 c.) Οἱ Περσῶν [νόμοι], μὴ κωλύοντες γαμεῖσθαι τοῖς παισὶ τὰς μητέρας, μηδὲ ὑπὸ τῶν πατέρων τὰς ἑαυτῶν θυγατέρας.—Conf. Augustin. de Civitat. Dei, l. 15. c. 16. (t. 7. p. 397.) De Jure Conjugiorum, &c. [The reference is not distinct: see ibid. n. 2. (p. 398 c.) Quod . . etiam inter impios deorum multorum falsorumque cultores sic observari cernimus, ut etiamsi perversis legibus permittantur fraterna conjugia, &c. Ed.]

[43] Octav. p. 92. (c. 31. p. 155.) Jus est apud Persas misceri cum matribus: Ægyptiis et Athenis cum sororibus legitima connubia.

[44] Quæst. in Lev. 18, 8. (t. 1. part. 1. p. 205.) Ὅτι δὲ πολλὰ τοιαῦτα τολμᾶται, μαρτυροῦσι καὶ Πέρσαι μέχρι τοῦ παρόντος, οὐ μόνον ἀδελφαῖς, ἀλλὰ καὶ μητράσι καὶ θυγατράσι νόμῳ γάμου μιγνύμενοι.

[45] In Cod. Theod. l. 3. tit. 12. de Incestis Nuptiis, leg. 1., ex Tacit. Annal. l. 12., Sueton. Vit. Claudii, c. 26., et Vit. Domitian. c. 22. (t. 1. p. 294.) Cum et antiquissimo jure, non minus fratris, quam sororis, filiam uxorem ducere nefas esset, postea tamen discrimen inductum fuit, inter fratris filiam et sororis filiam, videlicet ut illam patruo ducere liceret, hanc avunculo non liceret. Quod quidem Claudius imperator, Agrippinæ amore correptus, primus impetravit, quod scilicet justæ inter patres fratrumque filias nuptiæ in posterum SC. statuerentur, quæ ad id tempus incestæ habebantur, ut Tacitus, lib. 12. Annalium, et Suetonius in Vita Claudii, c. 26., diserte testantur. Hoc exemplo postea Domitiano fratris Titi filia in matrimonium oblata fuit, ut idem Suetonius in ejus Vita scribit, c. 22. Verum paullo post hoc discrimen, jure veteri restituto, sublatum fuit; Nerva quippe mox sanxit, μὴ ἀδελφιδὴν γαμεῖν, quod Xiphilinus ex Dione notat: ἀδελφιδήν, id est, non tantum sororis, sed et fratris, filiam ne ducere jus esset.

[46] Cod. Theod. ibid. (p. 294.) Si quis filiam fratris, sororisve, faciendum crediderit abominanter uxorem, aut in ejus amplexum, non ut patruus aut avunculus, convolaverit, capitalis sententiæ pœna teneatur.

[47] Ibid. tit. 12. de Incestis Nuptiis, leg. 2. (p. 296.) Etsi licitum veteres crediderunt, nuptiis fratris solutis, ducere fratrum uxorem; licitum etiam post mortem mulieris vel divortium, contrahere cum ejusdem sorore conjugium: abstineant hujusmodi nuptiis universi, nec æstiment posse legitimos liberos ex hoc consortio procreari: nam spurios esse convenit, qui nascentur.

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under the penalty of having their children illegitimate, and accounted spurious. And Theodosius Junior thought it proper to repeat the same law[48], though Honorius himself had made a stretch upon it, by marrying two sisters, the daughters of Stilicho, successively the one after the other. The ecclesiastical law dissolved all such marriages as incestuous, and obliged the parties to do penance for their lewdness. The Council of Eliberis[49] requires five years' penance, unless some intervening danger of death require the time to be shortened. The Council of Neocæsarea[50] orders the woman that is married to two brothers to remain excommunicate to the day of her death, and then only to be reconciled by receiving the sacrament in extremity, upon condition that if she recovers she shall dissolve the marriage, and submit to a course of solemn repentance. St. Basil argues at large for the nullity and dissolution of all such marriages in an Epistle to Diodorus Tarsensis[51], under whose name there went a feigned treatise in defence of them. And among the Apostolical Canons there is one[52] that orders, 'that whoever marries two sisters, or his brother's daughter, shall never be admitted among the clergy.'

Whether the marriage of cousin-germans was reckoned incest.

4. But they are not so clear and unanimous in the question about the marriage of cousin-germans. Till the time of St. Ambrose and Theodosius there was no law against it, but Theodosius by an express law absolutely forbad it. This law is not exstant now in either of the Codes, but there is reference made to it by many ancient writers. Honorius in one of his laws[53] makes mention of it, confirming the prohibition, though

[48] Ibid. leg. 4. (p. 300.) Tanquam incestum commiserit, habeatur, qui post prioris conjugis amissionem, sororem ejus in matrimonium proprium crediderit sortiendam. Pari ac simili ratione etiam, si qua post interitum mariti in germani ejus nuptias crediderit aspirandum. Illo sine dubio insecuturo, quod ex hoc contubernio nec filii legitimi habebuntur, nec in sacris patris erunt, nec paternam ut sui suscipient hæreditatem.

[49] C. 61. (t. 1. p. 977 a.) Si quis post obitum uxoris suæ, sororem ejus duxerit, ... quinquennium a communione placuit abstineri, nisi forte dari pacem velocius necessitas coegerit infirmitatis.

[50] C. 2. (ibid. p. 1481 a.) Γυνὴ ἐὰν γήμηται δύο ἀδελφοῖς, ἐξωθείσθω μέχρι θανάτου· πλὴν ἐν θανάτῳ διὰ τὴν φιλανθρωπίαν, εἰποῦσα ὡς ὑγιάνασα λύσει τὸν γάμον, ἕξει τὴν μετάνοιαν.

[51] Ep. 197. [al. 160.] (CC. t. 2. p. 1760 d.) Ἐάν τις ... ἐκπέσῃ πρὸς δυοῖν ἀδελφῶν ἄθεσμον κοινωνίαν, μήτε γάμον ἡγεῖσθαι τοῦτο, κ. τ. λ.

[52] C. 19. [al. 18.] (Cotel. v. 1. p. 439.) Ὁ δύο ἀδελφὰς ἀγαγόμενος, ἢ ἀδελφιδῆν, οὐ δύναται εἶναι κληρικός.

[53] Cod. Theod. l. 3. tit. 10. Si nuptiæ ex rescripto petantur, leg. 1.

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under a different penalty. For whereas Theodosius made the penalty to be confiscation and burning, he moderated the punishment into confiscation of the parties' goods, and the illegitimation of their children. And Arcadius by another law[54] took off confiscation also, but made all such still guilty of incestuous marriage, and rendered them intestate, and their children illegitimate, and incapable of succeeding to any inheritance, as being only a spurious offspring. Gothofred[55] has observed likewise, that there is mention made of this law of Theodosius in the writings of Libanius[56], who speaks of it as a new law made by him to forbid the marriage of *ἀνεψιοὶ*, that is, *cousin-germans*. The like is said by St. Ambrose[57], who takes notice of the severe punishment which the emperor laid upon all those that married in contradiction to the law. And it is thought that St. Ambrose was the emperor's adviser in the case, being of opinion himself that such marriages were incestuous and prohibited in Scripture. St. Austin was of a very different judgment from St. Ambrose, yet he mentions the emperor's law[58], and advises men to refrain from such marriages, be-

(t. 1. p. 287.) Exceptis his, quos consobrinorum, hoc est quarti gradus conjunctionem, lex triumphalis memoriæ patris nostri exemplo indultorum supplicare non vetavit, &c.

[54] Ibid. tit. 12. de Incestis Nuptis, leg. 3. (p. 297.) Manente circa eos sententia, qui post factam dudum legem quoquo modo absoluti sunt aut puniti, si quis incestis posthac consobrinæ suæ, vel sororis aut fratris filiæ, uxorisve . . . sese nuptiis funestarit, designato quidem lege supplicio, hoc est, ignium et proscriptionis, careat, proprias etiam quamdiu vixerit teneat facultates: sed neque uxorem neque filios ex ea editos habere credatur, ut nihil prorsus prædictis, ne per interpositam quidem personam, vel donet superstes, vel mortuus derelinquat.

[55] In Cod. Theod. l. 3. tit. 10. leg. 1. (ibid. p. 288. col. dextr.) Antiquissimus igitur et coætaneus quidem scriptor occurrit Libanius, orator Antiochenus, *Oratione*, quam nos primi edidimus, *ὑπὲρ τῶν γεωργῶν περὶ τῶν ἀγγαρειῶν*, quamque is ad ipsummet Theodosium scripsit. Ibi post exempla anterioris cujusdam imperatoris, immo et post alterum ipsiusmet Theodosii exemplum, quibus illi veteris consuetudinis morisque recepti ratione insuper habita, leges nihilominus salutares tulere, subjicit,—*Μὴ δὲ ἔστωσαν ἀνεψιῶν γάμοι γέγραφας, ἐν ἐξουσίᾳ πολλῇ τοῦ πράγματος, καὶ τῶν φαινομένων δικαίων οὐκ ἦν ὁ τοῦ ἔργου χρόνος δυνατώτερος.*

[56] Oratio pro Agricolis de Angariis. See the preceding note.

[57] Ep. 66. [al. 60.] ad Paternum. (t. 2. p. 1019 d. n. 8.) Nam Theodosius imperator etiam patrueles fratres et consobrinos vetuit inter se conjugii convenire nomine, et severissimam pœnam statuit si quis temerare ausus esset fratrum pia pignora, &c.

[58] De Civitat. Dei, l. 15. c. 16. (t. 7. p. 302 a.) Experti sumus in connubiis consobrinorum etiam nostris temporibus, propter gradum propinquitatis fraterno gradui proximum, quam raro per mores fiebat, quod fieri per leges licebat, quia id

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cause 'though neither the divine law, nor any human law before that of Theodosius, had prohibited them, yet most men were scrupulous about them, and such marriages were very rarely made, because men thought they bordered very near upon unlawful; whilst the marrying a cousin-german was almost deemed the same thing as marrying a sister, and the propinquity of blood gave men a sort of natural aversion to such engagements with their near kindred.' It appears from this, that there was no human law before that of Theodosius to prohibit this sort of marriages; and in St. Austin's opinion there was nothing to hinder them in the law of God. Athanasius [59] was of the same judgment; for he says expressly, 'that by the rule of God's commands the conjunction of cousin-germans, or brother's and sister's children in matrimony, was lawful marriage.' And afterwards Arcadius [60] revoked all former laws that he himself or others had made in derogation of such marriages, declaring them 'legal, and that no action or false accusation should lie against them, but that if cousin-germans married together, whether they were the children of two brothers, or two sisters, or a sister and a brother, their matrimony should be lawful, and their children legitimate.'

Justinian made this the standing law of the empire, not only by inserting it into his Code, but by declaring the same thing in his Institutions [61]: where Contius [62] rightly observes, that

nec divina prohibuit, et nondum prohibuerat lex humana: veruntamen factum etiam licitum propter vicinitatem horrebatur illiciti, et quod fiebat cum consobrina, pene cum sorore fieri videbatur, &c.

[59] Synops. Scriptur. Lib. Numer. t. 2. p. 70. (t. 2. p. 105 b.) Ὧδε λαμβάνουσι κλῆρον αἱ θυγατέρες Σαλπαὰδ, τὸν τοῦ πατρὸς ἑαυτῶν· καὶ ἐκ τῆς προφάσεως αὐτῶν γίνεται προσταγμα Κυρίου καὶ νόμος, νόμιμον εἶναι γάμον τὴν πρὸς ἀνεψιοὺς συζυγίαν.

[60] Cod. Justin. l. 5. tit. 4. de Nuptiis, leg. 19. (t. 4. p. 1135.) Celebrandis inter consobrinos matrimoniis licentia legis hujus salubritate indulta est; ut, revocati prisci juris auctoritate, restinctisque calumniarum fomentis, matrimonium inter consobrinos habeatur legitimum, sive ex duodus fratribus, sive ex duabus sororibus, sive ex fratre et sorore nati sunt, &c.

[61] Lib. 1. tit. 10. de Nuptiis, n. 4. (t. 5. p. 50.) Duorum autem fratrum, vel sororum liberi, vel fratris et sororis, conjungi possunt.

[62] [In loc. (ibid. ad calc. n. a.) Quidam codices, *conjungi non possunt;* at queita Theophilus scribit et Gaius, l. 1. inst., quod pugnat tamen cum l. *Celebrandis,* c. *de Nupt. leg.* 2., c. *de Inst. et sub. leg.* 3. &c. Malim igitur *conjungi possunt.* Ascripta est negatio Gaio ex Gotthorum jure, quo, ut Cassius indicat, *Var. l.* 7., recreata fuit Theodosiani constitutio, ut ne consobrini matrimonio jungantur sine venia principis, &c. Ed.]

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though some copies and some ancient writers, as Theophilus and others, read it negatively, *conjungi non possunt:* yet the other is certainly the true reading, both because it is agreeable to the law of Arcadius in the Code, and because Gregory the Great[63] so alleges it in his answer to Austin the monk upon this question, saying, 'The civil law of the Roman empire allows the marriage of cousin-germans, but the sacred law forbids it.' And this was now the known difference between the civil and ecclesiastical law. For though Zepper[64] alleges the Council of Epone and the second of Tours, as allowing such marriages, yet he plainly mistakes in both. For the Council of Epone expressly styles them incest and adultery[65], ranking them with marriages contracted with a sister, or the relict of a brother, or a father's wife. And the Council of Tours[66] is as plain in the matter, quoting the foresaid canon of Epone, and another of the Council of Arvern or Clermont against them. Gregory II. made a like decree in a Council at Rome[67], anno 721, and in the following ages the prohibition extended[68] to the sixth or seventh generation.

The short of the whole matter is this: before the time of Theodosius there was no law, ecclesiastical or civil, to prohibit the marriage of cousin-germans: under the reign of Theodosius they were forbidden, but allowed again in the next reign, and under Justinian, who fixed the allowance in the body of his laws. But still the canons continued the prohibition, and extended it to a greater degree. But as this was not the

[63] L. 12. Ep. 31. (CC. t. 5. p. 1569 c.) et ap. Bedam, l. 1. c. 27. (p. 63. 45.) Quædam terrena lex in Romana republica permittit, ut sive frater et soror, [al. sive fratris sive sororis,] seu duorum fratrum germanorum, vel duarum sororum filius et filia misceantur. Sed sacra lex prohibet, &c.

[64] Legum Mosaicarum Forensium Explanat. l. 4. c. 19. (p. 506.) Consentiunt his vetusta ecclesiæ Concilia. In Epaunensi enim Concilio, circa annum Christi 497 habito, refertur, *quod ultra consobrinos non progrediatur edictum.* Quod idem in Turonico secundo statuitur Concilio.

[65] C. 30. (t. 4. p. 1579 e.) Incestis junctionibus nihil prorsus veniæ reservamus, nisi cum adulterium separatione sanaverint; .... si quis novercam duxerit, si quis consobrinæ se societ.

[66] C. Turon. 2. c. 2. (t. 5. p. 872 a.) Quisquis aut sororem, aut filiam [al. sororis aut fratris filiam] aut certe gradu consobrinam, aut fratris uxorem, sceleratis sibi nuptiis junxerit, huic pœnæ subjaceat, &c.

[67] C. 8. (t. 6. p. 1457 a.) Si quis consobrinam duxerit in conjugium, anathema sit.

[68] Vid. Gratian, caus. 15. quæst. 5. (t. 1. p. 1845. 50.) Series consanguinitatis, &c.

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original constitution, nor the practice of the Church for some ages, to bring such marriages under penitential discipline, as incestuous or simply unlawful; so I have not here laid this load upon them, but given the fair account of men's sentiments on both sides, and the different practices both of Church and State in several ages; acting the part of an historian, but not inducing the reader to condemn what was once allowed by the general vote of the Catholic Church, however differently represented in later ages.

Of polygamy and concubinage.

5. The next question may be about polygamy, which denotes either having *many wives at once*, or *many successively* one after another.

As to the former, Socrates[69] tells a very strange story of the emperor Valentinian, that by the advice of his wife Severa he married a second wife whilst she was living; and upon that made a law to grant liberty to all that would to have two wives at the same time. The author of the book, called *Polygamia Triumphatrix*[70], makes a great stir with this pretended law in favour of polygamy: which in all probability is a mere fabulous story, which Socrates too hastily took up from the relation of some crafty impostor. For there is no footstep of any such law in either of the Codes, but much to the contrary. For even the Heathen law forbad it to the old Romans[71], as is evident from an edict of Diocletian in the Justinian Code, where he

[69] L. 4. c. 31. (v. 2. p. 254. 23.) *Ὡς οὖν ἶδεν αὐτὴν λουομένην τὴν Ἰουστίναν ἡ Σευήρα, ἠράσθη τοῦ κάλλους τῆς παρθένου· καὶ πρὸς τὸν βασιλέα διεξήει περὶ αὐτῆς, ὡς οὕτως εἴη θαυμαστὸν ἔχουσα κάλλος ἡ παρθένος, ἡ τοῦ Ἰούστου θυγάτηρ, ὡς καὶ αὐτὴν, καίτοι γυναῖκα οὖσαν, ἐρασθῆναι τῆς εὐφορμίας αὐτῆς. Ὁ δὲ βασιλεὺς ταμευσάμενος τὸν τῆς γυναικὸς λόγον, ἀγαγέσθαι τὴν Ἰουστίναν ἐβουλεύσατο, μὴ ἐκβαλὼν τὴν Σευήραν, ἀφ' ἧς αὐτῷ Γρατιανὸς ἐγεγόνει, ὃν μικρὸν ἔμπροσθεν ἀνηγορεύκει βασιλέα. Νόμον οὖν ὑπαγορεύσας δημοσίᾳ προτίθησι κατὰ πόλεις, ὥστε ἐξεῖναι τῷ βουλομένῳ δύο νομίμους ἔχειν γυναῖκας· καὶ ὁ μὲν νόμος προέκειτο· ὁ δὲ ἄγεται τὴν Ἰουστίναν, ἀφ' ἧς αὐτῷ γίνεται Οὐαλεντινιανός τε ὁ νέος, καὶ θυγατέρες τρεῖς, Ἰούστα, Γράτα, Γάλλα.*

[70] [John Lyser, under the assumed name of Theophilus Alethius: Lond. Scanor. 1682. 4to.—See thes. 13. (p. 83.) Primi vero imperatoris vestigiis institit subsequente tempore Valentinianus, qui legem primævam Julii, quasi obliteratam, in lucem produxit, et in omnibus civitatibus publicari jussit, quod liceat *δύο νομίμους ἔχειν γυναῖκας*, et proprio exemplo Severam et Justinam ducendo obsignavit.—See more ibid. note 5. (p. 89.) Fictor victoriæ fictæ totam historiam polygamicam Valentiniani in dubium vocare conatur, &c. Ed.]

[71] Cod. Justin. l. 5. tit. 5. de Incestis Nuptiis, leg. 2. (t. 4. p. 1145.) Neminem, qui sub ditione sit Romani nominis, binas uxores habere posse vulgo patet, &c.

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says, 'no Roman was allowed to have two wives at once, but was liable to be punished before a competent judge.' And the Christian law forbad the Jews also to have two wives at once[72] according to the allowance of their own law. Sallust[73] says the Romans were used to deride polygamy in the barbarians: and though Julius Cæsar[74] attempted to have a law passed in favour of it, he could not effect it. And Plutarch[75] remarks, that Mark Antony was the first that had two wives among the Romans. But that which is most decisive is, that neither Zosimus, nor Ammianus Marcellinus, the Heathen historians, object any such thing to Valentinian; which they would not have failed to have done, had he taken or granted any such liberty contrary to the laws of the Romans before him; but, on the other hand, Ammianus Marcellinus[76] says expressly of him, 'that he was remarkable for his chastity both at home and abroad, and had no contagion of obscenity upon his conscience; by which means he was able to bridle the petulancy of the imperial court, and keep it in good order.' And Zosimus[77] rather intimates, that he did not marry his second wife Justina, till Severa, his first, was dead. Whence Baronius[78] and Valesius[79]

[72] Ibid. l, 1. tit. 9. de Judæis, leg. 7. (t. 4. p. 198.) Nemo Judæorum morem suum in conjunctionibus retineat, nec juxta legem suam nuptias sortiatur, nec in diversa sub uno tempore conjugia conveniat.

[73] De Bell. Jugurth. c. 80. (Lugd. Bat. 1665. p. 328.) Etiam antea Jugurthæ filia Boccho nupserat. Verum ea necessitudo apud Numidas Maurosque levis ducitur, quod singuli pro opibus quisque quamplurimas uxores, denas alii, alii plures habent; sed reges eo amplius. Ita animus multitudine distrahitur; nulla pro socia obtinet: pariter omnes viles sunt.

[74] Vid. Sueton. Vit. Jul. Cæs. c. 52. (p. 33.) Helvius Cinna, trib. pleb., plerisque confessus est, habuisse se scriptam paratamque legem, quam Cæsar ferre jussisset, cum ipse abesset, uti uxores, liberorum quærendorum causa, quas et quot vellet, ducere liceret.

[75] Vit. Anton. in fin. (Oper. t. 1. p. 957 a. 9.) *Ἀντώνιος δὲ πρῶτον μὲν ὁμοῦ δύο γυναῖκας ἠγάγετο, πρᾶγμα μηδενὶ Ῥωμαίῳ τετολμημένον.*

[76] L. 30. c. 9. p. 462. (p. 608.) Omni pudicitiæ cultu domi castus et foris, nullo conscientiæ contagio violatus obscenæ; .. hancque ob causam tanquam retinaculis petulantiam aulæ regalis frenarat, quod custodire facile potuit.

[77] Hist. l. 4. (p. 262.) *Τότε δὴ νεὼς ἐπιβὰς ἐπὶ τὴν Θεσσαλονίκην ἀπῆρε· συναπέπλει δὲ αὐτῷ καὶ ἡ μήτηρ Ἰουστίνα, Μαγνεντίῳ μέν, ὡς εἴρηταί μοι, πρότερον συνοικήσασα· μετὰ δὲ τὴν ἐκείνου καθαίρεσιν, Οὐαλεντινιανῷ τῷ βασιλεῖ διὰ κάλλους ὑπερβολὴν συναφθεῖσα.*

[78] An. 370. (t. 4. p. 274 a.) Convincitur ex pluribus, apertissimis mendaciis anilem vel ab eo concinnatam esse fabellam, vel potius ipsum ab aliquo e trivio acceptum ut verum, conscripsisse commentum. Unde, quæso, Socrati, Justinam fuisse virginem, cum eam Valentinianus accepit in conjugem, quam constat uxorem fuisse Magnentii tyranni? Testatur id quidem inter hujus temporis scriptores Zosimus;

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rightly conclude, that this story in Socrates must needs be a mere groundless fiction, and that there never was any law to authorize polygamy in the Roman empire.

As to the laws of the Church, St. Basil[80] observes, that the Fathers said little or nothing of polygamy, as being a brutish vice, to which mankind had no very great propensity. But he determines it to be a greater sin than fornication, and consequently it ought to have a longer course of penance assigned it: for fornication was to have seven years' punishment by St. Basil's rules, and yet the term of penance for polygamy in this canon is only four years: which makes learned men suspect that this part of the canon is corrupted by the negligence of transcribers, and that St. Basil originally assigned a longer term of penance for this sin than appears from any copies now exstant, which only requires one year's penance in the quality of mourners, and three years in the class of co-standers, without any mention of their being hearers or prostrators, which are usually specified in most other canons of this author. In

qui certe quo non pretio redemisset, ut in Christianum imperatorem, proxime succedentem post Julianum, quem in odium Christianæ religionis adeo celebrat, potuisset tantum facinus exprobrare? Et quid dicemus de Ammiano æque Gentili, et in Christianos principes parum æquo, qui tamen nihil adeo celebrat in Valentiniano atque commendat ac castitatem? Sed ejus verba reddamus: *Omni pudicitiæ cultu, &c.* ... Appello nunc rectum eruditorum omnium sanumque judicium: potuissentne hæc de Christiano principe a scriptoribus in Christianam religionem infensis adeo prædicari, si Valentinianus fuisset publica illa obscenitate pollutus, quam scimus a Romanarum rerum historicis in barbaris esse derisam, et in Romano imperatore id tentante magnopere improbatam? — [Vedelius (de Prudent. Vet. Eccles. p. 229.) is against Baronius, but Melc. Ziedler (de Polygamia, p. 117.) defends Baronius's arguments. Vid. Fabric. Bibl. Antiq. c. 20. De Polygam. s. 11. (p. 588.) Quod vero pontificii scriptores, &c., where he discourses of Luther's allowing Philip, Prince of Hesse, to have a second wife; and of Honorius III. dispensing with polygamy in the Earl of Gleichen; out of Secker, and Bale, and Tentzel. Ed. from MS. note by Auth.]

[79] In Socrat. l. 4. c. 31. (v. 2. p. 254 b. n. 2.) Hujus legis Valentiniani nulla usquam fit mentio. Sed nec Ammianus Marcellinus, qui res Valentiniani accurate commemoravit, hujus legis meminit in suis libris. Certe hujusmodi lex nequaquam convenire mihi videtur Valentiniano, principi serio et Christiano. Tota igitur hæc narratio de Justinæ conjugio dubiæ fidei mihi videtur.

[80] C. 80. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1756 b.) *Τὴν δὲ πολυγαμίαν οἱ πατέρες ἀπεσιώπησαν, ὡς κτηνώδη, καὶ παντελῶς ἀλλοτρίαν τοῦ γένους τῶν ἀνθρώπων· ἡμῖν δὲ παρίσταται πλέον τι πορνείας εἶναι τὸ ἁμάρτημα· διὸ εὔλογον τοὺς τοιούτους ὑποβάλλεσθαι τοῖς κανόσι· δηλονότι ἐνιαυτὸν προσκλαύσαντες, καὶ ἐν τρισὶν ὑποπεσόντας, οὕτω δεκτοὺς εἶναι.*

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the first Council of Toledo[81] there is also a rule which accounts it the same thing as polygamy for a man to have a wife and a concubine together: for such an one may not communicate. But if he have no wife, but only a concubine instead of a wife, he may not be repelled from the communion, provided he be content to be joined to one woman only, whether wife or concubine, as he pleases. The difficulty, which seems to be in the latter part of this canon, I have been at some pains to explain in a former Book[82], where I show that in the sense of the ecclesiastical law a concubine differs nothing from a wife; though the civil law made a greater distinction between them; calling her only a concubine, who was married against any of the rules which the laws of the State prescribed, and denying her the privileges, rights, and honours, which belonged to a legal wife: for she could claim no right from her husband's estate, nor her children succeed to his inheritance: yet she was not reputed guilty of fornication, nor the husband accounted an adulterer in the eye of the Church, because they kept themselves faithfully and entirely to each other by an exact performance of the mutual contract made between them. Which was the reason why the Church allowed such a man to communicate who was united to a concubine, in the foresaid sense, instead of a wife; but reckoned him guilty of polygamy who kept a concubine and a wife together.

Of marrying after unlawful divorce.

6. Another sort of polygamy was the marrying of a second wife after the unlawful divorcement of a former. For this in effect was reputed the same as having two wives at once. There were some cases, in which a man might lawfully put away his wife, without any transgression against the rules of Church or State, or violation of any law, human or divine.

The civil law allowed it in many cases. Constantine specifies three cases[83], in which a man was at liberty to put away his

[81] C. 17. (t. 2. p. 1226 b.) Si quis habens uxorem fidelis [al. fidelem] concubinam habeat, non communicet. Cæterum is, qui non habet uxorem, et pro uxore concubinam habeat, a communione non repellatur, tantum ut unius mulieris, aut [uxoris aut] concubinæ, ut ei placuerit, sit conjunctione contentus.

[82] B. 11. ch. 5. s. 11. v. 4. p. 93.

[83] Cod. Theod. l. 3. tit. 16. de Repudiis, leg. 1. (t. 1. p. 310.) Placet, mulieri non licere propter suas pravas cupiditates marito repudium mittere exquisita causa velut ebrioso, aut aleatori, aut mulierculario: nec vero maritis per quascunque occasiones uxores suas dimittere. Sed in repudio mittendo a fœmina hæc sola crimina inquiri, si homicidam,

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wife, or a woman her husband. A woman might not divorce herself from her husband at pleasure for any ordinary cause, as, because he was a drunkard, or a gamester, or given to women; but only for these three crimes, if he was a murderer, or a poisoner, or a robber of graves; if otherwise, she was to forfeit all her title to his substance, and be sent into banishment. In like manner, the husband was not to put away his wife, but only for the three crimes of adultery, poisoning, and the practice of bawdry. If otherwise, the woman might claim her own portion, and the man was incapacitated to marry again. The following emperors allowed many other causes of lawful divorce[84]: as, if an husband was an adulterer, or a murderer, or a poisoner, or guilty of treason against his prince, or a perjured person, or a plunderer of graves, or robber of churches, or an highwayman, or harbourer of such, a stealer of cattle, or a man-stealer, or one frequenting the company of lewd women, which extremely exasperates a chaste wife; if he attempted her life by poison, or the sword, or any the like means; if he beat her as a slave, contrary to the rules of using freeborn women: in any of these cases she had liberty to use the necessary help of a divorce, making proof of the cause before a competent judge. And the same liberty was allowed the man against his wife upon these and the like reasons.

But the ecclesiastical laws were much stricter, and admitted of divorces only in case of adultery and malicious desertion. In the case of adultery, women as well as men were allowed to

vel medicamentarium, vel sepulchrorum dissolutorem maritum suum esse probaverit, &c. In masculis etiam, si repudium mittant, hæc tria crimina inquiri conveniet, si mœcham, vel medicamentariam, vel conciliatricem repudiare voluerit, &c.

[84] Cod. Justin. l. 5. tit. 17. De Repudiis, leg. S. Theod. Jun. (t. 4. p. 1242.) Si qua igitur maritum suum adulterum, aut homicidam, aut veneficum, vel certe contra nostrum imperium aliquid molientem, vel falsitatis crimine condemnatum invenerit: si sepulchrorum dissolutorem, si sacris ædibus aliquid subtrahentem, si latronem, vel latronum susceptorem, vel abactorem, aut plagiarium, vel ad contemptum sui domusve suæ, ipsa inspiciente, cum impudicis mulieribus, quod maxime etiam castas exasperat, cœtum ineuntem, si suæ vitæ veneno aut gladio aut alio simili modo insidiantem, si se verberibus, quæ ingenuis aliena sunt, afficientem probaverit: tunc repudii auxilio uti necessario ei permittimus libertatem, et causas dissidii legibus comprobare, &c.—See also Justin. Novel. 22. c. 8. (t. 5. p. 161.) Novel. 117. c. 8. (ibid. p. 506.) et Cod. l. 5. tit. 17. de Repudiis, leg. 10. et 11. (t. 4. pp. 1245, 1246.)

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divorce themselves from the offending party, as appears from the case related by Justin Martyr[85], and out of him by Eusebius[86], and several places of St. Austin[87]. And some canons[88] oblige the clergy to dismiss their adulterous wives, under pain of ecclesiastical censure; whilst St. Austin[89] pleads with the laity, rather to be reconciled to an adulterous wife upon her repentance, than dismiss her entirely, because of many great inconveniencies that might attend it. One of which was, that he thought the Scripture forbad both man and woman to marry again, even after a lawful divorce, till one of the parties was dead. But he does not so dogmatically assert this, as to make marrying after such a lawful divorce to be a crime worthy of excommunication. For in another Book[90], where he treats of the qualifications of baptism, he says, 'A man, who puts away his wife for adultery and marries another, is not to be ranked with those who put away their wives without cause

[85] Apol. 1. (p. 41 e.) Γυνή τις συνεβίου ἀνδρὶ ἀκολασταίνοντι, ἀκολασταίνουσα καὶ αὐτὴ πρότερον. Ἐπεὶ δὲ τὰ τοῦ Χριστοῦ διδάγματα ἔγνω αὕτη, ἐσωφρονίσθη, καὶ τὸν ἄνδρα ὁμοίως σωφρονεῖν πείθειν ἐπειρᾶτο, διδάγματα ἀναφέρουσα, τήν τε μέλλουσαν τοῖς οὐ σωφρόνως καὶ μετὰ λόγου ὀρθοῦ βιοῦσιν ἔσεσθαι ἐν αἰωνίῳ πυρὶ κόλασιν ἀπαγγέλλουσα. Ὁ δέ, ταῖς αὐταῖς ἀσελγείαις ἐπιμένων, ἀλλοτρίαν διὰ τῶν πράξεων ἐποιεῖτο τὴν γαμετήν· ἀσεβὲς γὰρ ἡγουμένη τὸ λοιπὸν ἡ γυνὴ συγκατακλίνεσθαι ἀνδρὶ παρὰ τὸν τῆς φύσεως νόμον καὶ παρὰ τὸ δίκαιον πόρους ἡδονῆς ἐκ παντὸς πειρωμένῳ ποιεῖσθαι, τῆς συζυγίας χωρισθῆναι ἐβουλήθη. Καὶ, ἐπεὶ ἐξεδυσωπεῖτο ὑπὸ τῶν αὐτῆς, ἔτι προσμένειν συμβουλευόντων, ὡς εἰς ἐλπίδας μεταβολῆς ἥξοντος ποτὲ τοῦ ἀνδρὸς, βιαζομένη ἑαυτὴν ἐπέμενεν. Ἐπειδὴ δὲ ὁ ταύτης ἀνὴρ, εἰς τὴν Ἀλεξάνδρειαν πορευθεὶς, χαλεπώτερα πράττειν ἀπηγγέλθη, ὅπως μὴ κοινωνὸς τῶν ἀδικημάτων καὶ ἀσεβημάτων γένηται μένουσα ἐν τῇ συζυγίᾳ, καὶ ὁμοδίαιτος καὶ ὁμόκοιτος γενομένη, τὸ λεγόμενον παρ' ὑμῖν ῥεπούδιον δοῦσα, ἐχωρίσθη.

[86] L. 4. c. 17. (p. 176. 14.) Γυνή τις συνεβίου ἀνδρὶ ἀκολασταίνοντι, κ. τ. λ.

[87] De Adulteriis Conjugiis, l. 2. cc. 6, seqq. (t. 6. p. 407 a, b.) Quod autem tibi durum videtur, &c.—De Bono Conjugali, c. 7. (ibid. p. 323 g.) Facit enim de hac re sancta Scriptura difficilem nodum, &c.

[88] C. Neocæs. c. 8. See before, s. 2. p. 410. n. 30.

[89] De Adulterinis Conjugiis, l. 2. per totum. (t. 6. pp. 403 . . . . 418.)

[90] De Fid. et Oper. c. 19. (t. 6. p. 185 e.) Quisquis etiam uxorem in adulterio deprehensam dimiserit, et aliam duxerit, non videtur æquandus eis, qui excepta causa adulterii dimittunt et ducunt. Et in ipsis divinis sententiis ita obscurum est, utrum et iste cui quidem sine dubio adulteram licet dimittere, adulter tamen habeatur si alteram duxerit, ut quantum existimo venialiter ibi quisque fallatur. Quamobrem quæ manifesta sunt impudicitiæ crimina, omnimodo à baptismo prohibenda sunt, nisi mutatione voluntatis et pœnitentiâ corrigantur: quæ autem dubia, omnimodo conandum est ne fiant tales conjunctiones. Quid enim opus est in tantum discrimen ambiguitatis caput immittere? Si autem factæ fuerint, nescio utrum ii, qui fecerint, similiter ad baptismum non debere videantur admitti.

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and marry again. For the question is so obscurely resolved in Scripture, Whether he, who putting away his wife for adultery marries again, be upon that score an adulterer? that a man may be supposed to err venially in the matter. Therefore those crimes of uncleanness, which are manifestly so, ought to debar a man from baptism, unless he change his mind, and correct his crimes by repentance: but for those which are dubious, all that is to be done, is to endeavour to persuade men not to engage in such marriages. For what need is there for men to run their heads into such dangerous ambiguities? But if they are already done, I am not sure that they who do them ought therefore to be denied baptism.' By this it appears, that though St. Austin in his own opinion was persuaded, that marrying after a lawful divorce was forbidden in Scripture; yet it was not so clearly forbidden, as to render a man incapable of baptism, nor consequently of the communion: these being of the same account in Christianity, and a man that is incapable of the one is incapable of the other. The first Council of Arles seems to have acted upon the same sentiments. The fathers there[91] declare it unlawful for men, who put away their wives for adultery, to marry others; but they do not order that the great censure of excommunication shall be inflicted on them, but only that they shall be dealt with and advised not to marry a second wife, while the other, who was divorced for adultery, was living.

The Author under the name of St. Ambrose[92] makes a difference between the man and the woman: he says, 'the man was allowed to marry a second wife after he put away a first for fornication, but the Apostle did not allow the same privilege to the woman.' In which opinion he seems to be singular: for Epiphanius[93], speaking of the same matter, says, 'that as the

[91] C. 10. (t. 1. p. 1428 b.) De his, qui conjuges suas in adulterio deprehendunt, et iidem sunt adolescentes fideles, et prohibentur nubere; placuit, ut, in quantum potest [al. possit], consilium eis detur, ne viventibus uxoribus suis, licet adulteris, alias accipiant.

[92] In 1 Cor. 7, 11. t. 5. p. 262. (t. 2. append. p. 133 e.) Non enim permittitur mulieri ut nubat, si virum suum causa fornicationis dimiserit. ... Viro licet ducere uxorem, si uxorem dimiserit peccantem.

[93] Hær. 59. Cathar. s. Novatian. n. 4. (t. 1. p. 496 d. & 497 a.) Ἔξεστι δὲ τῷ λαῷ δι' ἀσθένειαν διαβαστάζεσθαι, καὶ μὴ δυνηθέντας ἐπὶ τῇ πρώτῃ γαμετῇ στῆναι, δευτέρᾳ μετὰ θάνατον τῆς πρώτης συναφθῆναι· καὶ ὁ μὲν μίαν ἐσχηκὼς, ἐν ἐπαίνῳ μείζονι καὶ τιμῇ παρὰ πᾶσιν ἐκκλησιαζομένοις

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Scripture allows men to marry a second wife after the death of the first; so, if a separation is made upon the account of fornication, or adultery, or any such cause, it does not condemn either the man that marries a second wife, or the woman that marries a second husband, nor deny them the privilege of church-communion or eternal life, but bears with them for their infirmity.' And Origen[94], though he himself was against the thing, plainly declares, that there were some bishops in his time, who allowed women as well as men to marry after such divorces, whilst the separate party was still living: which he reckons indeed to be against those rules of the Apostle, [Rom. 7, 2 and 3.] "A woman is bound as long as her husband liveth;" and "She shall be called an adulteress, if, as long as her husband liveth, she be married to another man." Yet he thinks they might have reasons for permitting it; because perhaps they had regard to the infirmity of such as could not contain, and only permitted an evil against the original rule to avoid a greater sin. Yet some Councils forbade such marriages under the penalty of excommunication to those that were of the number of the faithful, only making some allowance to those that were mere catechumens. To this purpose there are two canons in the Council of Eliberis[95], and one in the Council of Milevis[96],

*ἐνυπάρχει· ὁ δὲ μὴ δυνηθεὶς τῇ μιᾷ ἀρκεσθῆναι τελευτησάσῃ *, [ἢ] ἕνεκέν τινος προφάσεως, πορνείας, ἢ μοιχείας, ἢ κακῆς αἰτίας χωρισμοῦ γενομένου, συναφθέντα δευτέρᾳ γυναικὶ, ἢ γυνὴ [μὴ δυνηθεῖσα τῷ ἑνὶ τελευτήσαντι ἀρκεσθῆναι, συναφθεῖσαν] δευτέρῳ ἀνδρὶ, οὐκ αἰτιᾶται ὁ θεῖος λόγος, οὐδὲ ἀπὸ τῆς ἐκκλησίας, καὶ τῆς ζωῆς ἀποκηρύττει, ἀλλὰ διαβαστάζει διὰ τὸ ἀσθενές.*

[94] Tractat. 7. in Matth. t. 2. p. 67. (juxt. Vet. Interpret. vid. Ed. Ascensian. t. 3. fol. 18. ad calc. col. sinistr.) Scio enim quosdam, qui præsunt ecclesiis, extra Scripturam permisisse aliquam nubere, viro priori vivente: et contra Scripturam quidem fecerunt dicentem, *Mulier ligata est quanto tempore vivit vir ejus.* Item, *Vivente viro, adultera vocabitur, si facta fuerit alteri viro.* Non tamen omnino sine causa hoc permiserunt: forsitan enim propter hujusmodi infirmitatem incontinentium hominum, pejorum comparatione, quæ mala sunt permiserunt, adversus ea quæ ab initio fuerant scripta. [Conf. Nov. Interpret. vid. Ed. Bened. Lib. 14. in Matth. n. 23. (t. 3. p. 647 a.) Jam vero contra Scripturæ legem, &c. Ed.]

[95] C. 9. (t. 1. p. 971 d.) Fœmina fidelis, quæ adulterum maritum reliquerit fidelem, et alterum duxerit, [al. ducit, leg? *duceret*], prohibeatur ne ducat. Si [autem] duxerit, non prius accipiat communionem, quam is, quem reliquit, [al. nisi quem reliquerit,] de sæculo exierit; nisi forte necessitas infirmitatis dare compulerit.—C. 10. (ibid. e.) Si ea, quam catechumenus reliquerit, [al. reliquit] duxerit maritum, potest ad

* [Suspecta mihi loci hujus integritas est. Petav. in marg.—The place is most obscure and will scarcely construe as it stands: perhaps some terms, like those I have placed between the brackets, would make it clearer. Ed.]

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which orders, 'that according to the evangelical and apostolical discipline, neither the man that is divorced from his wife, nor the woman divorced from her husband, shall marry others, but either abide so, or be reconciled: and they that contemn this order are to be subjected to public penance; and withal a petition should be presented to the emperor, to desire him to confirm this rule by an imperial sanction.'

From all which we may easily perceive, that this was always reckoned a difficult question, whether persons after a lawful divorce might marry again in the lifetime of the relinquished party? The imperial laws allowed it; many of the ancient Fathers also approved it; some condemned it, but suffered it to pass without any public punishment; and others required a certain penance to be done for it in the church. Of all which different practices the learned reader, that is more curious, may find an ample account in Cotelerius's Notes[97] upon Hermes Pastor. But though they differed upon this point, there was no disagreement upon the other, that to marry a second wife after an unlawful divorce, whilst the former was living, was professed adultery, and as such to be punished by the sharpest censures of the Church. The Apostolical Canons[98] order every one to be excommunicated, who either puts away his wife and marries again, or marries one that is put away by another. And all canons generally agree to debar such from entering into holy orders, as marry a wife that is put away by another man. The Council of Eliberis goes further, and orders[99] 'such

fontem lavacri admitti. Hoc et circa fœminas catechumenas erit observandum.

[96] C. 17. (t. 2. p. 1541 e.) Placuit, ut, secundum evangelicam et apostolicam disciplinam, neque dimissus ab uxore, neque dimissa a marito, alteri conjungantur: sed ita maneant, aut sibi reconcilientur. Quod si contempserint, ad pœnitentiam redigantur. In qua causa legem imperialem petendam promulgari.—Vid. Cod. Afric. c. 105. [al. 102.] (ibid. p. 1118 d.) Ἤρεσεν ὥστε, κ. τ. λ.

[97] V. 1. (p. 88. nn. 2, seqq.) Visum olim est principibus Christianis, &c.

[98] C. 48. [al. 47.] (Cotel. [c. 40.] ibid. p. 444.) Εἴ τις λαϊκὸς, τὴν ἑαυτοῦ γυναῖκα ἐκβάλλων, ἑτέραν λάβῃ, ἢ παρὰ ἄλλου ἀπολελυμένην, ἀφοριζέσθω.—Conf. Basil. c. 48. [Oper. Basil. Ep. 199. Canonic. Secund.] (CC. t. 2. p. 1745 b.) Ἡ δὲ ἐγκαταλειφθεῖσα παρὰ τοῦ ἀνδρὸς, κατὰ τὴν ἐμὴν γνώμην, μένειν ὀφείλει· εἰ γὰρ ὁ Κύριος εἶπεν, ὅτι Ἐάν τις καταλείπῃ γυναῖκα, ἐκτὸς λόγου πορνείας, ποιεῖ αὐτὴν μοιχᾶσθαι· ἐκ τοῦ μοιχαλίδα αὐτὴν ὀνομάσαι, ἀπέκλεισεν αὐτὴν τῆς πρὸς ἕτερον κοινωνίας. Πῶς γὰρ δύναται ὁ μὲν ἀνὴρ ὑπεύθυνος εἶναι, ὡς μοιχείας αἴτιος, ἡ δὲ γυνὴ ἀνέγκλητος [al. ἀναίτιος] εἶναι, ἡ μοιχαλὶς παρὰ τοῦ Κυρίου, διὰ τὴν πρὸς ἕτερον ἄνδρα κοινωνίαν, προσαγορευθεῖσα;

[99] C. 8. (t. 1. p. 971 d.) Fœminæ, quæ nulla præcedente causa reliquerint viros suos, et alteris se copula-

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women as forsake their husbands without cause, and marry others, to be refused communion even at their last hour.' And 'such as marry men who have put away their wives unjustly, if they do it knowingly, are not to be received till the last moment of their days,' or, as other copies read it, 'no, not at their last hour.'

Of second, third, and fourth marriages.

7. Some canons also press hard upon the second, third, and fourth marriages, by which they seem not to understand either simultaneous polygamy, or marrying after divorce, whilst the former wife was living; but *marrying two or three wives successively* after the death of the former. For though they did not account those downright adultery, nor with the Montanists and Novatians condemn them as simply unlawful, yet some of the Ancients were willing to discourage them, and therefore they imposed a certain term of penance upon them. The Council of Neocæsarea in one canon[1] says, 'They that marry often have a time of penance allotted them:' and in another[2], 'No presbyter shall be present at the marriage-feast of those that marry twice: for a digamist requires penance. How then shall a presbyter by his presence at such feasts give consent to such marriages?'

There are many other harsh expressions in Athenagoras, Irenæus, Origen, Gregory Nazianzen, Chrysostom, Jerom and others, concerning second and third marriages, which the learned reader may find collected by Cotelerius[3], in his Notes upon Hermes Pastor and the Constitutions. The latter of which writers[4] declares also against second and third marriages as transgressions of the law, and brands fourth marriages

verint, nec in fine accipiant communionem.—C. 10. (ibid. e.) Si fuerit fidelis, quæ ducitur ab eo, qui uxorem inculpatam reliquerit, et cum scierit illum habere uxorem, quam sine causa reliquit, placuit hujusmodi in fine dari communionem [al. huic nec in fine dandam esse communionem].

[1] C. 3. (ibid. p. 1481 b.) *Περὶ τῶν πλειστοῖς γάμοις περιπιπτόντων, ὁ μὲν χρόνος σαφὴς ὁ ὡρισμένος· ἡ δὲ ἀναστροφὴ καὶ ἡ πίστις αὐτῶν συντέμνει τὸν χρόνον.*

[2] C. 7. (ibid. d.) *Πρεσβύτερον εἰς γάμους διγαμούντων μὴ ἑστιᾶσθαι· ἐπεὶ μετάνοιαν αἰτοῦντος τοῦ διγάμου, τίς ἔσται ὁ πρεσβύτερος, ὁ διὰ τῆς ἑστιάσεως συγκατατιθέμενος τοῖς γάμοις;*

[3] In Herm. Past. l. 2. mandat. 4. (v. 1. pp. 87, 88.)—In Constit. Apost. l. 3. c. 2. (ibid. p. 275. n. 66.) *Καὶ τοῦτο εἰδέναι ὀφείλετε, κ. τ. λ.* Matrimonium primum laudat, &c.

[4] Constit. Apost. l. 3. c. 2. (Cotel. v. 1. p. 275.) .... *Διγαμία δὲ μετὰ ἐπαγγελίαν παράνομον, οὐ διὰ τὴν συνάφειαν, ἀλλὰ διὰ τὸ ψεῦδος· τριγαμία ἀκρασίας σημεῖον· τὸ δὲ ὑπὲρ τὴν τριγαμίαν, προφανὴς πορνεία καὶ ἀσελγεια ἀναμφίβολος.*

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with the hard name of προφανὴς πορνεία, *manifest fornication.* But Hermes Pastor is more candid: for in answer to the question, Whether men or women may marry after the death of a first consort? he says [5], 'He that marries sins not: but if he continues as he is, he shall obtain great honour of the Lord.' He neither condemns second marriage, nor gives it any hard name, nor lays any penalty upon it; but only makes it matter of counsel and advice to refrain under the prospect of a great reward. And St. Austin [6] answers the question after the same manner, that he dares not condemn any marriages for the number of them, whether they be second, or third, or any other. 'I dare not be wise above what is written. Who am I, that I should define what the Apostle has not defined? "The woman is bound," says the Apostle, "as long as her husband liveth." He said not, the first husband, or the second, or the third, or the fourth; but "The woman is bound as long as her husband liveth: but if her husband be dead, she is at liberty to be married to whom she will; only in the Lord. But she is happier if she so abide." I see not what can be added to or taken from this sentence. Our Lord himself did not condemn the woman that had had seven husbands. And therefore I dare not, out of my own heart, without the autho-

[5] L. 2. mandat. 4. n. 4. (Cotel. ibid. p. 90.) Si vir vel mulier alicujus decesserit, et nupserit aliquis illorum, numquid peccat? Qui nubit, non peccat, inquit: sed si per se manserit, magnum sibi conquirit honorem apud Dominum.

[6] De Bon. Viduitat. c. 12. (t. 6. p. 376 f.) De tertiis et de quartis et de ultra pluribus nuptiis solent homines movere quæstionem. Unde, ut breviter respondeam, nec ullas nuptias audeo damnare, nec eis verecundiam numerositatis auferre. Sed ne cuiquam brevitas hujus responsionis meæ forte displiceat, uberius disputantem reprehensorem meum audire paratus sum. Fortassis enim affert aliquam rationem, quare secundæ nuptiæ non damnentur, tertiæ damnentur. Nam ego .... non audeo plus sapere, quam oportet sapere. Quis enim sum, qui putem definiendum, quod nec Apostolum video definisse? Ait enim, *Mulier alligata est, quamdiu vir ejus vivit.* Non dixit, *primus,* aut *secundus,* aut *tertius,* aut *quartus:* sed *Mulier,* inquit, *alligata est, quamdiu vir ejus vivit: si autem mortuus fuerit vir ejus, liberata est: cui vult nubat, tantum in Domino. Beatior autem erit si sic permanserit.* Quid huic sententiæ, quantum ad hunc rem attinet, addi vel detrahi possit, ignoro. Deinde ipsum quoque Apostolorum ac nostrum Magistrum et Dominum audio Sadducæis respondentem, cum proposuissent mulierem non univiram vel biviram, sed, si diei potest, septiviram, in resurrectione cujus futura esset uxor? Increpans enim eos, ait, *Erratis, non scientes Scripturas, neque virtutem Dei. In resurrectione enim nec nubent, nec uxores ducent: non enim incipient mori, sed erunt æquales angelis Dei.* Eorum itaque resurrec-

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rity of Scripture, condemn any number of marriages whatsoever. But what I say to the widow that has been the wife of one man, the same I say to every widow, Thou art happier if thou so abidest.'

Epiphanius had occasion to dispute the matter both against the Montanists and Novatians, where[7] he says, 'The Montanists were of the number of those who forbid men to marry, rejecting all such as were twice married, and compelling them not to take a second wife; whereas the Church imposed no necessity on men, but only counselled and exhorted those that were able, laying no necessity upon the weak, nor rejecting them from hopes of eternal life.' In like manner he blames the Novatians[8] for making the rule, which was given to the clergy, to be the husband of one wife, extend to all: whereas it was lawful for the people, after the death of a first wife, to marry a second. For though he who was content with one wife was had in more honour and esteem by the Church, yet the Scripture did not condemn him who married a second after the death of the first, or after a divorce made for fornication or adultery, or any such cause; neither did it reject him from the privilege of church-communion or eternal life. And it is certain the great Council of Nice thus determined the matter[9] against the Novatians, requiring them upon their return to the Church, 'to make profession in writing that they

tionem commemoravit, qui resurgent ad vitam, non qui resurgent ad pœnam. Potuit ergo dicere, *Erratis, nescientes Scripturas neque virtutem Dei;* in illa enim resurrectione multinubæ istæ esse non poterunt: deinde addere, quia nec aliqua ibi nubit. Sed nec ipsam, ut videmus, tot maritorum mulierem ulla suæ sententiæ significatione damnavit. Quapropter nec contra humanæ verecundiæ sensum audeo dicere, ut quoties voluerit, viris mortuis, nubat fœmina: nec ex meo corde præter Scripturæ sanctæ auctoritatem quotaslibet nuptias audeo condemnare. Quod autem dico univiræ viduæ, hoc dico omni viduæ; *Beatior eris, si sic permanseris.*

[7] Hær. 48. Phrygast. s. Montan. n. 9. (t. 1. p. 410. d.) Ἐκβάλλουσι γὰρ τὸν δευτέρῳ γάμῳ συναφθέντα, καὶ ἀναγκάζουσι μὴ δευτέρῳ γάμῳ συνάπτεσθαι. Ἡμεῖς δὲ οὐκ ἀνάγκην ἐπιτιθέαμεν· ἀλλὰ παραινοῦμεν μετὰ συμβουλίας ἀγαθῆς προτρεπόμενοι τὸν δυνάμενον· οὐκ ἀνάγκην δὲ ἐπιτιθέαμεν τῷ μὴ δυναμένῳ· οὐκ ἐκβάλλομεν αὐτὸν ἀπὸ τῆς ζωῆς.

[8] Hær. 59. Cathar. s. Novatian. n. 4. (ibid. p. 496 a.) Τὰ γὰρ εἰς ἱερωσύνην παραδοθέντα διὰ τὸ ἐξοχώτατον τῆς ἱερουργίας, εἰς πάντας ἐνόμισαν ἴσως φέρεσθαι· ἀκηκοότες ὅτι δεῖ τὸν ἐπίσκοπον ἀνεπίληπτον εἶναι, μιᾶς γυναικὸς ἄνδρα, κ. τ. λ. See note 93. p. 424.

[9] C. 8. (t. 2. p. 32 e.) Πρὸ πάντων δὲ τοῦτο ὁμολογῆσαι αὐτοὺς ἐγγράφως προσήκει, ὅτι συνθήσονται καὶ ἀκολουθήσουσι τοῖς τῆς καθολικῆς καὶ ἀποστολικῆς ἐκκλησίας δόγμασι· τοῦτ' ἔστι, καὶ διγάμοις κοινωνεῖν, κ. τ. λ.

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would submit to the decrees of the Catholic Church, particularly in this, that they would *διγάμοις κοινωνεῖν, communicate with digamists,'* or those that were *twice married.*

So that whatever private opinion some might entertain in this matter, or whatever private rules of discipline there might be in some particular Churches in relation to digamists; it is evident the general rule and practice of the Church was not to bring such under discipline, as guilty of any crime, which at most was only an imperfection in the opinion of many of those who passed an heavier censure on it. As for such as plainly condemned second, third, or fourth marriages, as fornication or adultery, I see not how they can be justified, or reconciled to the practice of the Catholic Church: and therefore I leave them to stand or fall by themselves, and go on with the more uncontested discipline of the Church against some other practices of uncleanness.

Of ravishment.

8. Among which they set a peculiar mark upon ravishment, that is, using force and violence to virgins and matrons to compel them to commit uncleanness. Constantine, in one of his laws [10], condemns all sorts of raptors to the flames, as well those that ravished vigins against their wills, as those that stole them with their own consent against the will of their parents. And though Constantius a little moderated the punishment, yet he still made it a capital crime [11], to be punished with death: and in case a slave was concerned in it, he was left to the severity of the former law, to be burned alive. Jovian also made it a capital crime [12] for any one not only to commit a rape upon a consecrated virgin, but to solicit her to marry either willingly or unwillingly against the rules of her profession. The laws of the Church could inflict no such punishment; but, when there was occasion, they drew the spiritual sword against them. 'If any one offers violence to a virgin not espoused to him, let him be excommunicated,' say the Apostolical Canons [13]; 'neither shall he take any other

[10] Cod. Theod. l. 9. tit. 24. de Raptu Virginum, &c., leg. 1. See before, ch. 9. s. 2. p. 377. n. 8.

[11] Ibid. leg. 2. See before, ibid. p. 378. n. 9.

[12] Ibid. tit. 25. de Raptu vel Matrimonio Sanctimonialium, leg. 2. (t. 3. p. 197.) Si quis, non dicam rapere, sed vel attemptare matrimonii jungendi causa sacratas virgines, vel invitas, ausus fuerit, capitali sententia ferietur.—See also Justin. Novel. 14. Ne sint lenones, &c. (t. 5. p. 115.)

[13] C. 67. (Cotel. [c. 59.] v. 1. p. 446.) Εἴ τις παρθένον ἀμνήστευτον

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wife, but her whom he has so detained, although she be poor.' St. Basil[14] condemns those who are guilty of committing rapes upon virgins to four years' penance, as fornicators: where by *a rape* he means the lowest degree of it, that is, stealing a virgin espoused to another man, and detaining her against her father's consent. In which he also orders[15] not only the raptor to be excommunicated, but also his family, and the place or village where he dwelt, if they were accomplices, or aiding and assisting to him in his usurpation. From whence we may infer, that if stealing and detaining a virgin with her own consent was thus punishable, the defiling of her by violence was a more heinous crime, and censured with greater severity in the discipline of the Church.

Of unnatural impurities.

9. What has hitherto been said relates to the violation of the laws of chastity in the ordinary course of nature. Beyond which there were some monstrous impurities, consisting in the several species of unnatural uncleanness; such as the defilement of men with brutes, commonly called *bestiality;* and the defilement of men with men, working that which is unseemly, after the manner of Sodom; and the defilement of men's own bodies with themselves by voluntary self-pollution. Tertullian[16] calls all these 'impious furies of lust, which make men change the natural use of the sex into that which is against nature;' on which the Church laid an uncommon and singular punishment, excluding them not only from all parts of the church, but from the very first entrance of it; because they were not ordinary crimes, but monsters.

The Council of Ancyra has two canons relating to these crimes, the first[17] of which orders, 'that they who are guilty

βιασάμενος ἰσχῇ, ἀφοριζέσθω· μὴ ἐξεῖναι δὲ αὐτῷ ἑτέραν λαμβάνειν, ἀλλ' ἐκείνην κατεχεῖν, ἣν καὶ ᾑρετίσατο, κἂν πενιχρὰ τυγχάνῃ;

[14] C. 22. See before, ch. 9. s. 2. p. 379. n. 14.

[15] Ep. 244. [al. 270. Sine Inscript.] (t. 3. part. 2. p. 603 e.) *Καὶ τὴν μὲν παῖδα, κ. τ. λ.* See ch. 3. s. 7. p. 162, latter part of n. 79.

[16] De Pudicit. c. 4. (p. 557 b.) Reliquas autem libidinum furias impias et in corpora, et in sexus ultra jura naturæ, non modo limine, verum omni ecclesiæ tecto submovemus, quia non sunt delicta, sed monstra.

[17] C. 16. (t. 1. p. 1461 c.) *Περὶ τῶν ἀλογευσαμένων, ἢ καὶ ἀλογευομένων· Ὅσοι πρὶν εἰκοσαετεῖς γενέσθαι ἥμαρτον, πέντε καὶ δέκα ἔτεσιν ὑποπεσόντες, κοινωνίας τυγχανέτωσαν τῆς εἰς τὰς προσευχάς· εἶτα ἐν τῇ κοινωνίᾳ διατελέσαντες ἔτη πέντε, τότε καὶ τῆς προσφορᾶς ἐφαπτέσθωσαν.... Ὅσοι δὲ ὑπερβάντες τὴν ἡλικίαν ταύτην, καὶ γυναῖκας ἔχοντες, περιπεπτώκασι τῷ ἁμαρτήματι, πέντε καὶ εἴκοσι*

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of bestial lusts before they are twenty years old, be prostrators fifteen years, and after that communicate in prayers only for five years; but if they exceed that age, and be married when they fall into this sin, they are to be prostrators twenty-five years, and five years after communicate in prayers only; if they are above fifty years old, and be married, they are to do penance all their lives, and only communicate at the point of death.' The next canon[18] orders, 'that they who are guilty of bestial lusts, and are leprous, (that is, infect others by tempting and teaching them to commit the same sin,) should pray *εἰς τοὺς χειμαζομένους, inter hyemantes,* that is, either *among the demoniacs,* or *those that were exposed to the weather* without the walls of the church. Suicerus[19] thinks this canon is to be understood of those that were infected with the corporal disease of leprosy, who by the old law were removed without the camp; but it is more probable it means the spiritual leprosy of those who infected others with the contagion of the same beastly sins, and taught or tempted them to commit the same uncleanness. For otherwise, leprosy under the Gospel would not deserve the extremity of punishment, but commiseration and mercy. St. Basil[20] imposes the penance of adulterers, that is, twenty years' penance, both upon those that abuse themselves with beasts, and those that abuse themselves with mankind. And sometimes[21] he lengthens the term

ἔτη ὑποπεσέτωσαν· καὶ κοινωνίας τυγχανέτωσαν τῆς εἰς τὰς προσευχάς· εἶτα ἐκτελέσαντες πέντε ἔτη ἐν τῇ κοινωνίᾳ τῶν εὐχῶν, τυγχανέτωσαν τῆς προσφορᾶς. Εἰ δέ τινες καὶ γυναῖκας ἔχοντες, καὶ ὑπερβάντες τὸν πεντηκονταετῆ χρόνον, ἥμαρτον, ἐπὶ τῇ ἐξόδῳ τοῦ βίου τυγχανέτωσαν τῆς κοινωνίας.

[18] C. 17. (ibid. e.) *Τοὺς ἀλογευσαμένους καὶ λεπροὺς ὄντας, ἤτοι λεπρώσαντας, τούτους προέταξεν ἡ ἁγία σύνοδος εἰς τοὺς χειμαζομένους εὔχεσθαι.*

[19] Thes. Eccles. voce, *Λεπρὸς.* (t. 2. p. 226.) Hoc igitur decimo septimo canone [Ancyrano] addunt: si ejusmodi homines leprosi fuerint, ad hiemantes, id est, extra omnem ecclesiæ ambitum, *εἰς ὑπαίθριον καὶ τὰ τοῦ ναοῦ προαύλια* esse submovendos, ne scilicet sui corporis contagio cæteros inficerent, ut ibi pœnitentiam, quæ canone præcedenti definita fuerat, peragant. Mosaica lege (Levit. 13, 46. Numer. 5, 2.) leprosi a reliquo cœtu prohibentur, qui mos in Europa viget, non religionis sed sanitatis causa.

[20] C. 62. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1749 d.) *Ὁ τὴν ἀσχημοσύνην ἐν τοῖς ἄρρεσιν ἐπιδεικνύμενος, τὸν χρόνον* [al. *τῷ χρόνῳ*] *τοῦ ἐν τῇ μοιχείᾳ παρανομοῦντος οἰκονομηθήσεται.* — Ibid. c. 63. [Oper. Basil. ibid.] (CC. ibid. d.) *Ὁ ἐν ἀλόγοις τὴν ἑαυτοῦ ἀσέβειαν ἐξαγορεύων, τὸν αὐτὸν χρόνον* [al. *λόγον*] *ἐξομολογούμενος παραφυλάξεται.*

[21] C. 7. [Oper. Basil. Ep. 188. Canonic. Prim.] (CC. ibid. 1724 a.)

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to thirty years, comparing these sins with murder, idolatry, witchcraft and adultery; which, he says, all deserve the same punishment.

The Council of Eliberis [22] imposes a severer punishment upon those that so abuse boys to satisfy their lusts; for such are denied communion even at their last hour. The laws of the old Romans had provided no sufficient remedy for these corruptions. There was an old law, called the *Lex Scantinia*, mentioned by Juvenal [23] and some others [24]: but it lay dormant for many ages, till the Christian emperors came to revive it. The frequent complaints that are made by the Christian writers of the three first ages, Clemens Alexandrinus [25], Justin Martyr [26], Tatian [27], Minucius Felix [28], Tertullian [29], Cyprian [30], and Lactantius [31], sufficiently show that these

Ἄρρενοφθόροι καὶ ζωοφθόροι, καὶ φονεῖς, καὶ φαρμακοὶ, καὶ μοιχοὶ, καὶ εἰδωλολάτραι, τῆς αὐτῆς καταδίκης εἰσὶν ἠξιωμένοι, κ.τ.λ.—Conf. Greg. Nyssen. Ep. ad Letoium. c. 4. t. 2. p. 118 c. (CC. [c. 3.] ibid. p. 1784 b.) *Διπλασίων ὡρίσθη τῆς ἐπιστροφῆς ὁ χρόνος τοῖς ἐν μοιχείᾳ μιανθεῖσι, καὶ ἐν τοῖς ἀπηγορευμένοις κακοῖς, ζωοφθορίᾳ τε καὶ τῇ κατὰ ἄρρενας λύσσῃ.*

[22] C. 71. (t. 1. p. 978 a.) Stupratoribus puerorum nec in fine dandam esse communionem.

[23] Sat. 2. v. 43. (ap. Corp. Poet. Lat. t. 2. p. 1144.)
Quod si vexantur leges ac jura, citari
Ante omnes debet Scatinia....

[24] Valer. Max. l. 6. c. 1. [s. 7.] (Antw. 1621. p. 224.) M. Claudius Marcellus, ædilis curulis, C. Scatinio Capitolino, trib. pl., diem ad populum dixit, quod filium suum de stupro appellasset: eoque asseverante, se cogi non posse ut adesset, quia sacrosanctam potestatem haberet, et ob id tribunitium auxilium implorante, totum collegium tribunorum negavit se intercedere, quo minus pudicitiæ quæstio peragaretur. Citatus itaque Scatinius reus, uno teste, qui tentatus erat, damnatus est.

[25] Pædagog. l. 1. c. 3. (p. 101. 28.) [Vid. præsertim, l. 2. c. 10. pp. 220, seqq. Ed.]

[26] Apol. 2. (p. 50 e.) *Διὸς δὲ καὶ τῶν ἄλλων θεῶν μιμηταὶ γενόμενοι ἐν τῷ ἀνδροβατεῖν καὶ γυναιξὶν ἀδέως μίγνυσθαι· κ.τ.λ.*—[Apol. 2. (p. 67 c.) *Μιμητὰς γὰρ θεῶν καλὸν εἶναι πάντες ἡγοῦνται· ἀπεῖη δὲ σωφρονούσης ψυχῆς ἔννοια τοιαύτη περὶ θεῶν, ὡς καὶ αὐτὸν τὸν ἡγεμόνα καὶ γεννήτορα πάντων κατ' αὐτοὺς Δία, πατροφόντην τε καὶ πατρὸς τοιούτου γενονέναι, ἔρωτί τε κακῶν καὶ αἰσχρῶν ἡδονῶν ἥττω γενόμενον, ἐπὶ Γανυμήδην καὶ τὰς πολλὰς μοιχευθείσας γυναῖκας ἐλθεῖν, καὶ τοὺς αὐτοῦ παῖδας τὰ ὅμοια πράξαντας παραδέξασθαι. Grischov.*]

[27] Orat. ad Græc. p. 165. (ad calc. Just. Mart. p. 164. lin. ult.) *Παιδεραστία μὲν ὑπὸ βαρβάρων διώκεται, προνομίας δὲ ὑπὸ Ῥωμαίων ἠξίωται, παίδων ἀγέλας ὥσπερ ἵππων φορβάδων συναγείρειν αὐτῶν πειρωμένων.*

[28] Octav. p. 68. (c. 22. p. 112.) Quid loquar Martis et Veneris adulterium deprehensum? et in Ganymedem Jovis stuprum cœlo consecratum? quæ omnia in hoc prodita, ut vitiis hominum quædam auctoritas pararetur.

[29] De Monogam. c. 12. (p. 533 b.) Sicut ille vester Uthinensis nec Scantiniam timuit.—Ad Nation. l. 1. c. 16. (p. 51 a.) Date igitur aliquam nationem vacantem ab eis, quæ omne hominum genus ad incestum trahunt. Si qua gens concubitu ipso et ætatis ac sexus necessitate,

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vices were practised with impunity among the Heathen. The law made against them was only a pecuniary mulct[32], and that was very rarely put in execution against them. Suetonius[33] says, Domitian in the first and good part of his reign condemned some few offenders by this law: but the distemper grew so raging and inveterate afterwards, that Alexander Severus, a much better prince, durst not effectually set about the cure of it, as Lampridius[34] testifies in his Life. After him Philip the emperor, who by some is called a Christian, made a new law to forbid it; but the main business devolved at last upon those that were more undoubtedly Christians. Among whom Constantius[35], by one of his laws exstant in both the Codes, made it a capital crime, and ordered it to be punished with death by the sword. Theodosius added to the penalty by a severer sanction[36], ordering 'that such as were found guilty of this unnatural vice should be burnt alive in the presence of all the people.'

Thus the civil and ecclesiastical laws combined together to exterminate all sorts of uncleanness; deterring men from such acts of impurity as were a scandal to the Christian profession, by such penalties, temporal and spiritual, as were thought most proper to be inflicted in order to restrain them.

Of maintaining and allowing harlots.

10. Neither was it only the direct and immediate acts of uncleanness they thus censured and punished, but all other acts

ne dixerim libidine et luxuria, caret, ea erit, quæ carebit incesto: si qua ab humana conditione privata quadam natura remota est, ut neque ignorantiæ, neque errori, neque casui opposita sit, ea erit, quæ sola Christianis respondere constantius possit.

[30] Ad Donat. p. 6. (p. 5.) Libidinus insanis in viros viri proruunt.

[31] Instit. l. 5. c. 9. (t. 1. p. 384.) ..... Qui corpora sua libidinibus prostituant; qui denique immemores, quid nati sint, cum fœminis patientia certent, &c.

[32] Vid. Quintilian. Instit. l. 4. c. 2. p. 187. (p. 238 summ.) .... Decem millia, quæ pœna stupratori constituta est, &c.

[33] Vit. Domit. c. 8. (p. 332.) Quosdam ex utroque ordine lege Scantinia [s. Scatinia] condemnavit.

[34] Vit. Alexandr. Sever. c. 24. p. 350. (int. Aug. Hist. Scriptor. p. 532.) Habuit in animo ut exoletos vetaret, quod postea Philippus fecit; sed veritus est, ne prohibens publicum dedecus in privatas cupiditates converteret; cum homines illicita magis poscant, prohibitaque furore persequantur.

[35] Cod. Theod. l. 9. tit. 7. ad Legem Juliam de Adulteris, leg. 3. (t. 3. p. 59.) Cum vir nubit in fœminam .... ubi Venus mutatur in alteram formam, ... jubemus insurgere leges, armari jura gladio ultore, ut exquisitis pœnis subdantur infames.

[36] Ibid. leg. 6. (p. 62.) .... Hujusmodi scelus, exspectante populo, flammis vindicibus expiabunt.

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that opened and prepared the way to them. Of which kind the maintaining or encouraging of harlots, publicly or privately, was reckoned a most infamous practice. Great complaints have been made by writers [37], of divers kind, of the licentiousness of many modern Popes in granting tolerations at Rome to such lewd and wicked practices, and receiving annual pensions for the toleration of them. But the ancient laws, both civil and ecclesiastical, were far from such abuses. Heathen Rome, in this respect, was more chaste and modest than the modern papacy. For even there we find a law, recorded out of Papinian in the Pandects [38], 'that whoever wittingly let his house be the place to commit fornication, or adultery with another man's wife, or any defilement with mankind, or made any gain of the adultery of his own wife, should be punished as an adulterer, of whatever condition he was.' And it is remarkable in the laws of Constantine [39], that a man was allowed to put away his wife, not only if she was an adulteress herself, but if she was a conciliatrix, a pander or procurer of adultery in others. By the laws of Theodosius Junior [40], if any parent or

[37] Vid. Zepper. Legum Mosaicarum Explanat. l. 4. c. 18. (p. 457.) Paulus Tertius in tabellis quadraginta quinque meretricum millia numerata habebat, ex quarum fornicatione singulis mensibus censum exegit, quæque cum Papa die noctuque consuetudinem habebant, et in summo honore a Papa habebantur. —Agripp. de Vanitat. Scientiar. c. 64. (ap. Mornæi Myster. Iniquitat. p. 594.) Inter lenones recentiorum temporum, inquit Agrippa, qui lupanaria ædificabant, nobilis erat Sixtus IV. Romanus pontifex, qui Romæ nobile admodum lupanar exstruxit, atque utrique Veneri assignavit: meretricum cohortes, Heliogabali exemplo, ita aluit, amicisque et servis exhibuit, non nihil emolumenti ex meretricio quæstu ærario suo accumulans. Romana enim scorta in singulas hebdomadas Julium nummum adhuc pendent pontifici, qui census annuus nonnunquam viginti millia ducatos excedit: adeoque procerum ecclesiæ id munus est, ut una cum ecclesiarum proventibus, etiam lenociniorum numerent mercedem.—Wesel. Groning. de Indulgentiis Papalibus, (ap. Morn. ibid. ad calc. p. ejusd.) Ad prædicti Petri, tunc S. Sixti cardinalis ac patriarchæ Constantinopolitani et Hieronymi fratris sui postulationes, domesticæ familiæ toti cardinalis D. Luciæ, qui Paulo secundo a venationibus fuerat, in tribus mensibus anni calidioribus Junio, Julio et Augusto, masculino coitu frui permisit, cum hac clausula, *Fiat ut petitur*.

[38] Digest. l. 48. tit. 5. ad Leg. Jul. de Adult. leg. 8. (t. 3. p. 1445.) Qui domum suam, ut stuprum adulteriumve cum aliena matre familias, vel cum masculo fieret, sciens præbuerit, vel quæstum ex adulterio uxoris suæ fecerit, cujuscunque sit conditionis, quasi adulter punitur.

[39] Cod. Theod. l. 3. tit. 16. de Repudiis, leg. 1. (t. 1. p. 310.) In masculis etiam, si repudium mittant, hæc tria crimina inquiri conveniet, si mœcham, vel medicamentariam, vel conciliatricem repudiare voluerit.

[40] Cod. Justin. l. 11. tit. 40. de Spectaculis et Scenicis et Lenonibus,

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master prostituted his daughter or his female slave, they were to forfeit all right of dominion over them: the parties so compelled might appeal to the bishop of the place, or the judge, or the defensor, and require their assistance or protection; and if after that their superiors, master, or father, would go on as panders still to compel them, their goods were to be confiscated, and their persons banished and sent to the mines.

Socrates [41] commends Theodosius the Great for another good law, whereby he demolished the infamous houses, commonly called *sistra*, at Rome. For till his time a very evil custom prevailed there, that when any woman was taken in adultery, she was condemned by way of punishment to be a common prostitute in the public stews: which kind of punishment, as Socrates truly remarks, did no ways contribute towards her amendment, but only compelled her to add sin to sin. Therefore Theodosius, in his zeal for the piety and purity of the Christian religion, abolished this impudent and scandalous punishment; providing other penalties for adultery, and destroying these infamous houses out of Rome.

Theodosius Junior did the same good service at Constantinople, by a new law [42], ordering all panders who kept infamous houses 'to be publicly whipped and expelled the city, and that all their slaves, whom they kept for such vile purposes, should be set at liberty.' And whereas hitherto these wretches had

leg. 6. (t. 5. p. 160 ad calc.) Lenones, patres et dominos, qui suis filiabus, vel ancillis peccandi necessitatem imponunt; nec jure frui dominii, nec tanti criminis patimur libertate gaudere. Igitur tali placet eos indignatione subduci, ne potestatis jure frui valeant, nêve quis [leg. quid] eis ita possit acquiri: sed ancillis filiabusque, si velint, conductisve pro paupertate personis, quas sors damnavit humilior, episcoporum liceat, judicum etiam defensorumque implorato suffragio omni miseriarum necessitate absolvi: ita ut si insistendum eis lenones esse crediderint, vel peccandi ingerant necessitatem invitis, amittant non solum eam, quam habuerint potestatem, sed proscripti pœnæ mancipentur exsilii, metallis addicendi publicis.—Vid. Cod. Theod. l. 15. tit. 8. de Lenonibus, leg. 2. (t. 5. p. 310.) where nearly the same words occur.

[41] L. 5. c. 18. (v. 2. p. 285. 15.) *Εἰ ἤλω ἐπὶ μοιχείᾳ γυνὴ, οὐ διορθώσει, ἀλλὰ προσθήκη τῆς ἁμαρτίας ἐτιμωροῦντο τὴν πταίσασαν· ἐν γὰρ πορνείῳ στενῷ κατάκλειστον ποιήσαντες, ἀναιδῶς ἐποίουν πορνεύεσθαι. . . . Ταῦτα οὐκ ἤνεγκεν ὁ βασιλεὺς, πυθόμενος τὴν ἀναιδῆ συνήθειαν, ἀλλὰ κατέλυσε τὰ σείστρα, οὕτω γὰρ ὠνομάζετο τὰ τοιαῦτα πορνεῖα· τοῖς ἄλλοις ὑποπίπτειν νόμοις τὰς ἁλούσας ἐπὶ μοιχείᾳ κελεύσας.*

[42] Novel. 18. de Lenonibus, ad calc. Cod. Theod. (t. 6. append. p. 10.) . . . . In libertatem prius miserrimis mancipiis vindicatis, vel ingenuis personis conductione impia liberatis, gravissime verberatus hujus urbis finibus . . . . pellatur.

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kept up their trade in spite of former laws, under pretence of paying a certain annual tax to the government out of their infamous gain, Theodosius abrogated this tax; and in lieu of it, one Florentius, a nobleman by whose pious advice the emperor did this, gave an equivalent out of his own estate to the exchequer, that there might be no deficiency or damage accruing to the public revenue, which might afterwards be used as a plea to grant these miscreants a new toleration. Thus these pious emperors laboured to extirpate this abominable vice out of their two great capitals. And when some remainders of it continued, notwithstanding all their endeavours, Justinian resumed the matter, reviving and confirming all the preceding laws by a new edict of his own[43], and augmenting the punishments specified in them, to root out this abominable way of making provision for lewdness throughout his whole empire.

As to the ecclesiastical laws, there is no crime they punished more severely than this. As may be easily collected from the canons of the Council of Eliberis; one[44] of which orders, 'that if a father or a mother or any Christian exercise the trade of a pander, forasmuch as they set to sale the body of another, or rather their own, they shall not be received to communion, no not at their last hour.' And another[45] decrees, 'that if a woman commit adultery by the consent of her husband, they shall be rejected even to the last.' The reason of this is grounded upon what Tertullian[46] observes of the law prohibiting fornication, that it equally forbids any one to be aiding or assisting or conscious to another in the practice of it. 'For what I may not do myself, I may not be instrumental to have it done by others. And therefore by the same reason that I

[43] Justin. Novel. 14. (t. 5. p. 115.) Et antiquis legibus, et dudum imperantibus satis odibile visum est esse lenonum causam et nomen, in tantum ut, &c... Nos autem dudum posita contra eos, qui sic impie agunt, supplicia auximus; et si quid relictum est a nostris prædecessoribus, etiam hoc per alias correximus leges, &c.

[44] C. 12. (t. 1. p. 972 a.) Mater vel parens vel quælibet fidelis, si lenocinium exercuerit; eo quod alienum vendiderit corpus, vel potius suum, placuit eas nec in fine accipere communionem.

[45] C. 70. (ibid. p. 978 a.) Si conscio marito [al. cum conscientia mariti] fuerit mœchata uxor, placuit nec in fine dandam ei esse communionem.

[46] De Idolol. c. 11. (p. 91 d.) Nam quod mihi de stupro interdictum sit, aliis ad eam rem nihil aut operæ aut conscientiæ exhibeo. Nam quod ipsam carnem meam a lupanaribus segregavi, agnosco me neque lenocinium neque id genus lucrum alterius causa exercere posse.

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keep my own body from the common stews, I own myself obliged neither to promote that infamous trade, nor raise any gain by or for others by such vile practices.' Albaspiny[47] rightly observes from the forementioned canons, that this crime was esteemed greater than fornication and adultery itself: because adulterers were received to the peace of the Church after a certain term of penance, but this crime was denied communion to the last.

Of writing and reading lascivious books.

11. Another way of promoting uncleanness was the writing or reading lascivious or obscene books and plays, than which there is no greater incentive or provocation to impurity. And therefore as the Ancients burned and abolished all sorts of heretical books, that they might not corrupt the faith; so they equally forbad the writing or reading all other pernicious books, which tended to debauch the morals of Christians, and severely censured the authors of them, if any such were composed by Christian writers. Socrates[48] says Heliodorus, a

[47] [In Can. 12. C. Eliber. (t. 1. p. 992 c.) Gravius puniuntur lenones, et earum turpitudinum artifices, quam ipsamet adulteria et virginum stuprationes. Nam Zephyrini edicto, mœchiæ et fornicationi pœnitentia functis, veniam in morte, vel post longam pœnitentiam, concessam legimus: hoc vero canone ea ipsa moribundis lenonibus, et parentibus, qui quæstum ex filiarum stupro fecerint, denegatur: cujus severioris disciplinæ hanc rationem adducunt, quod suum (ad parentes id refertur) aut alienum vendiderint corpus, hoc est, pessumdederint, perdiderint, et libidini manciparint. *Grischov.*]

[48] Lib. 5. c. 22. (v. 2. p. 297. 1.) Ἀλλὰ τοῦ μὲν ἐν Θεσσαλίᾳ ἔθους ἀρχηγὸς Ἡλιόδωρος, Τρίκκης τῆς ἐκεῖ γενόμενος, οὗ λέγεται πονήματα, ἐρωτικὰ βιβλία, ἃ νέος ὢν ἔταξε καὶ Αἰθιοπικὰ προσηγόρευσε. [This Heliodorus flourished in the reigns of Theodosius and Honorius, towards the end of the fourth century. His celebrated romance relates the history of Theagines and Chariclea in ten books. The work scarcely deserves the title of *lascivious;* but possibly what Socrates says may relate to some erotic poems not extant. The learned Huetius was of opinion that this Heliodorus was among the romance-writers what Homer was among the poets, the source and model of an infinite number of imitations, all inferior to their original. The first edition of the Ethiopics was printed at Basle 1533, with a dedication to the senate of Nuremberg, prefixed by Vincentius Opsopæus, who informs us that a soldier preserved the MS., when the library of Buda was plundered. Bourdelot's learned notes upon the book were printed at Paris in 1619 with the original Greek and a Latin translation, which was first made by a Polish knight, Stanislaus Warszewicki, and published also with the Greek at Basle in 1551. A good English translation was published by Mr. Payne, London, 1792, in two vols. 12mo. See more in Chalmers' Biographical Dictionary, v. 17. p. 321.—Among 'the testimonies of eminent persons concerning the following work,' which Mr. Tate has prefixed to his translation into English of the Ethiopian History (London, 1686, 8vo.) is the following, from the second book of Dr. Heylin's Cosmography, (Lond. 1666,

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Thessalian bishop, when he was a young man, wrote a lascivious romance called his Ethiopics; which others[49] tell us occasioned a censure to be passed upon him when he was bishop, and he was deprived of his bishopric because he would not recant it. For the same reason they utterly discouraged the reading of such Heathen books as were stuffed with impurities; and some canons were made to prohibit the clergy especially from conversing with such writers, of which I have given a more ample account in a former Book[50].

Frequenting of the theatre and stage-plays forbidden upon this account.

12. They are equally severe in their invectives against all frequenters of the theatre and public stage-plays upon the same account: because these were the great nurseries of impurity, where incest and adultery were represented with abominable obscenity, and in a manner acted over again, to corrupt the spectators by their contagion and example. 'Here,' as Cyprian[51] says, 'adultery was learned by seeing it acted;

p. 601.) where, describing Thessaly, he mentions Tricca as 'the episcopal see of Heliodorus, the author of that ingenious piece called the *Æthiopic History*, which he so prized that he chose rather to lose his bishopric, than consent to the burning of his book, which a provincial synod had adjudged to the fire. A piece indeed of rare contexture and neat contrivance, without any touch of loose or lascivious language, honest and chaste affection being the subject of it, not such as old or modern poets show us in the comedies or other poems. For here we have no incestuous mixtures of fathers and daughters, no panderism of old nurses, no unseemly action specified, where heat of blood and opportunity do meet, nor indeed any one passage unworthy of the chastest ear.'—This account of the book is quite just, and may serve to vindicate the author of a romantic love-tale from the obloquy which the statement of Nicephorus seems to have thrown upon his name. There it a quaint metrical version of the same romance by Wm. Lisle, London, 1638. Ed.]

[49] Nicephorus, Hist. l. 12. c. 34. (t. 2. p. 296 d. 5.) Οὗ [Ἡλιοδώρου] *ποιήματα ἐρωτικὰ εἰσέτι νῦν περιφέρεται, ἃ νέος ὢν συνετάξατο, Αἰθιοπικὰ προσαγορεύσας αὐτά· νῦν δὲ καλοῦσι ταῦτα Χαρίκλειαν· δι' ἃ καὶ τὴν ἐπισκοπὴν ἀφῃρέθη. Ἐπειδὴ γὰρ πολλοῖς τῶν νέων κινδυνεύειν ἐκεῖθεν ἐπῄει, ἡ ἐγχώριος προσέταττε σύνοδος, ἢ τὰς βίβλους ἀφανίζειν, καὶ πυρὶ δαπανᾷν, ὑπαναπτούσας τὸν ἔρωτα, ἢ μὴ χρῆναι ἱεράσθαι τοιαῦτα συνθέμενον· τὸν δὲ μᾶλλον ἑλέσθαι τὴν ἱεροσύνην λιπεῖν ἢ ἐκ μέσου τιθέναι τὸ σύγγραμμα.*

[50] B. 6. ch. 3. s. 4. v. 2. p. 203.

[51] Ad Donat. p. 6. (p. 4.) Adulterium discitur, dum videtur; et lenocinante ad vitia publicæ auctoritatis malo, quæ pudica fortasse ad spectaculum matrona processerat, de spectaculo revertitur impudica. Adhuc deinde morum quanta labes? quæ proborum fomenta? quæ alimenta vitiorum, histrionicis gestibus inquinari? videre contra fœdus jusque nascendi patientiam incestæ turpitudinis elaboratam? Evirantur mares, honor omnis et vigor sexus enervati corporis dedecore mollitur, plusque illic placet, quisquis virum in fœminam magis fregerit; in laudem crescit ex crimine, et peritior quo turpior judicatur. Spectatur hic, proh nefas! et libenter. Quid non possit suadere, qui talis est? Movet sensus, mulcet affectus, ex-

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provocations to vice were so much the stronger, because they were recommended by the authority of great examples; the matron, which perhaps came chaste to the theatre, returned back with a contrary disposition. The very gestures of the actors were enough to corrupt men's morals, being fomenters of vice, and purveyors of nutriment for corrupt distempers. Venus they represented in all her lewd behaviour; Mars, as an adulterer; and their Jupiter, no less a prince in his vices than in his kingdom, burning with his thunderbolts in earthly amours, sometimes shining in the plumes of a swan, sometimes descending in a golden shower, and sometimes sending out his eagles to fetch him a beautiful Ganymede. Consider now whether a spectator can be innocent and chaste in viewing such sights as these. Men imitate the gods which they worship, and by this means become more wretched, because their very vices are consecrated into religion.' He speaks this against the Heathen spectators, but the main of his arguments will equally hold against the Christian. For the theatres by reason of their impurities were places of unavoidable temptation; 'the Devil's own ground, his own property and possession;' as Tertullian[52] says, the Devil once called them, when 'being asked by a Christian exorcist, in the case of a woman who was seized by him at the theatre, How he durst presume to possess a Christian? he answered confidently, I had a right to do it, for I found her upon my own ground.' Tertullian[53]

pugnat boni pectoris conscientiam fortiorem: nec deest probri blandientis auctoritas, ut auditu molliore pernicies hominibus obrepat. Exprimunt impudicam Venerem, adulterum Martem; et Jovem illum suum, non magis regno quam vitiis principem, in terrenos amores cum ipsis suis fulminibus ardentem, nunc in plumis oloris albescere, nunc aureo imbre defluere, nunc in puerorum pubescentium raptus ministris avibus prosilire. Quære jam nunc, an possit esse, qui spectat, integer vel pudicus. Deos suos, quos venerantur, imitantur: fiunt miseris et religiosa delicta.

[52] De Spectac. c. 26. (p. 83 c.).. In meo eam inveni.

[53] Ibid. c. 10. (p. 77 b.) Theatrum proprie sacrarium Veneris est. Hoc denique modo id genus operis in sæculo evasit. Nam sæpe censores nascentia cum maxime theatra destruebant, moribus consulentes, quorum scilicet periculum ingens de lascivia providebant, ut jam hinc ethnicis in testimonium cedat sententia ipsorum nobiscum faciens, et nobis in exaggerationem disciplinæ etiam humanæ prærogativa. Itaque Pompeius Magnus, solo theatro suo minor, ruinas, cum illam arcem omnium turpitudinum exstruxisset, veritus quandoque memoriæ suæ censoriam animadversionem, Veneris ædem superposuit, et, ad dedicationem edicto populum vocans, non theatrum, sed Veneris templum nuncupavit. Cui subjecimus, inquit,

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says further, 'that the theatre is properly the temple of Venus upon a double account, both because it was the school of lasciviousness, and because when Pompey built his famous theatre, he was forced to set the temple of Venus upon it, for fear the Roman censors should demolish it;' as they had done some others, in their concern for the morals of the people, which they were sensible were corrupted by the poison and infection of the theatres, which were nothing else, in the opinion of the more grave and sober Romans, but the citadel and fortress of all impure and lascivious practices.

For this reason, therefore, as well as because they were accompanied with idolatrous rites, Tertullian and all the Ancients declaim against them, and forbid Christians to frequent them, under pain of being deemed guilty of all the impurities of the place, and partakers of all the lewdness committed in them. As this was one part of their baptismal renunciation, where the impurities of the stage were virtually renounced in renouncing the pomps of Satan[54]; so it was necessary for a Christian to abstain from them as a spectator, for fear of losing his title to Christian communion, and being accounted a renegado to his first profession. It is certain it was so in the time of Tertullian, and when the Author of the Constitutions[55] drew up his collections. But in after-ages, because the civil laws allowed the interludes of the theatre for the diversion of the people, when they were purged from idolatry, but not from lewdness, the fathers contented themselves to declaim against them with sharp invectives, and correct that reigning humour by serious admonitions, which the iniquity of the times would not suffer them to do by the more exact and primitive discipline of the Church. Any one that will consult St. Chrysostom's[56], or

gradus spectaculorum. Ita damnatum et damnandum opus templi titulo prætexit, et disciplinam superstitione delusit.

[54] See b. 11. ch. 7. s. 2. v. 4. p. 121. Whence it is plain, &c.

[55] L. 8. c. 32. (Cotel. v. 1. p. 412.) *Τῶν ἐπὶ σκηνῆς ἐάν τις προσείη ἀνὴρ, ἢ γυνὴ, ἢ ἡνίοχος, ἢ μονομάχος, ἢ σταδιοδρόμος, ἢ λουδεμπιστὴς, ἢ Ὀλυμπικὸς, ἢ χοραύλης, ἢ κιθαριστὴς, ἢ λυριστὴς, ἢ ὁ τὴν ὄρχησιν ἐπιδεικνύμενος, ἢ κάπηλος, ἢ παυσάσθωσαν, ἢ ἀποβαλλέσθωσαν.*

[56] Hom. 6. in Matth. (t. 7. p. 99 b, seqq.) *Διὰ τοῦτο καὶ θέατρα κ. τ. λ.*—Hom. 73. de S. Barlaam. t. 1. p. 893. (t. 2. p. 687 a.) *Οὐχ ὁρᾶτε τοὺς ἀπὸ τῶν θεάτρων καταβαίνοντας μαλακωτέρους γινομένους; τὸ δὲ αἴτιον, ὅτι μετὰ σπουδῆς τοῖς ἐκεῖ γινομένοις προσέχουσι· καὶ γὰρ ὀφθαλμῶν περιστροφὰς, καὶ χειρῶν περιδονήσεις, καὶ ποδῶν κύκλους, καὶ πάντων τῶν ἐν τῇ διαστροφῇ τοῦ λυγισθέντος σώματος φανέντων εἰδώλων*

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Cyril's Catechisms[57], or Salvian[58], may find this observation true, that though the Canons did not now make it peremptory excommunication for a man to frequent the theatre, yet the Fathers inveighed as sharply as ever against it, for the impurity and corruption of morals, that were the natural consequences of it.

There was anciently a famous sight or play called *maiuma*, a considerable part of which diversion was to see infamous strumpets swim naked in the water. Whence learned men observe, it had its name: for *maiuma*, in the Syriac tongue, signifies *water*. Gothofred[59] observes, and Pagi[60] after him,

τοὺς τύπους ἐναποθέμενοι ταῖς ψυχαῖς ἀπέρχονται. Πῶς οὖν οὐκ ἄτοπον, ἐκείνους μὲν ἐπὶ λύμῃ τῆς ἑαυτῶν ψυχῆς τοσαύτην ἐπιδείκνυσθαι πρόνοιαν, καὶ μνήμην ἐνδιάθετον ἔχειν τῶν ἐκεῖ γινομένων; ἡμᾶς δὲ, κ. τ. λ. —Hom. 15. ad Pop. Antioch. ibid. p. 190. (ibid. p. 157 c.) *Τὸ εἰς τὰ θέατρα ἀναβαίνειν πάλιν, καὶ ἵππων ἁμίλλας θεωρεῖν, καὶ κυβεύειν, οὐ δοκεῖ πλημμέλημα τοῖς πολλοῖς ὡμολογημένον εἶναι· μυρία δὲ εἰς τὸν βίον εἰσάγει κακά· καὶ γὰρ ἡ ἐν τοῖς θεάτροις διατριβὴ πορνείαν, ἀκολασίαν, καὶ πᾶσαν ἀσέλγειαν ἔτεκε, καὶ ἡ τῆς ἁμίλλης τῶν ἵππων θεωρία μάχας, λοιδορίας, πληγὰς, ὕβρεις, ἀπεχθείας διηνεκεῖς ἐπήγαγε· καὶ ἡ περὶ τὸ κυβεύειν σπουδὴ βλασφημίας, ζημίας, ὀργὰς, λοιδορίας, μυρία ἕτερα τούτων δεινότερα πολλάκις εἰργάσατο. Μὴ τοίνυν ἁμαρτήματα φεύγωμεν μόνον, ἀλλὰ τὰ δοκοῦντα μὲν ἀδιάφορα εἶναι, κατὰ μικρὸν δὲ καὶ ἡμᾶς εἰς τὰς πλημμελείας ἄγοντα ταύτας.*

[57] Catech. [19.] Mystag. 1. n. 4. [al. 6.] (p. 308 c.) *Φεῦγε καὶ τὰς ἱπποδρομίας, τὸ ἐμμανὲς θέαμα, καὶ ψυχὰς ἐκτραχηλίζον· ταῦτα γὰρ πάντα πομπή ἐστι τοῦ Διαβόλου.*

[58] De Gubernat. l. 6. nn. 3, 4, 5, 6. p. 197. (pp. 116, seqq. præsertim n. 6. p. 121.) Quomodo, o Christiane, post baptismum, &c.

[59] In Cod. Theod. lib. 15. tit. 6. de Maiuma, leg. 2. (t. 5. p. 358.) Spectaculum, seu Maiumæ lætitia, per eandem præfecturam prætorianam Orientis, provincialibus sub certa lege antea adempta, redditur leg. 1, anno Domini 396; mox absolute denegatur, anno 399, hac leg. 2. Idque intra quatuor ferme annorum spatium. Redditur, inquam, leg. 1, cum antea (ut puto a Constantio Imp. rursus a Theodosio M. patre, castissimo principe) prohibita fuisset: sub hac tamen conditione redditur, ut honestas et verecundia castis moribus perseveraret, id est, ut fœditas omnis et procacia ab ea abesset. Hoc scilicet temperamentum Arcadio clementiæ titulo seu clementer adhibere primum visum fuit, anno D. 396. At enim, cum rebus ipsis postea comperisset, procacem hanc licentiam et fœditatem ab ipsa Maiumæ celebritate seu spectaculo sejugari non posse, triennio, et quod excurrit post, ad superiorum principum Christianorum ingenium rediit, ea penitus denegata: leg. 2. hoc tit.: aliis vero ludicris et honestis artibus concessis, quibus abunde provinciales tristia sua consolari possent.

[60] Crit. in Baron. an. 399. n. 5. (t. 1. p. 27.) Gothofredus in Comment. Leg. 2. Cod. Theodos., ubi varia habet de Maiuma, observat ejus mentionem non occurrere, nisi ab eo tempore, quo Christiani imperatores exstitere, tantumque ejus retinendæ populis studium fuisse, contra vero tam justas ejus coërcendæ, mox et prohibendæ, iisdem imperatoribus causas visas esse; ut a Constantino Magno, quo imperante Maiumam celebratam verosimile, ad Arcadium, octies hac parte variatum fuerit, ea modo legibus permissa, modo iisdem vetita.

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that the people were so eagerly bent and inclined to this obscene diversion, that though there were good reasons for abolishing it, yet the imperial laws, from Constantine to Arcadius, varied eight times about it; sometimes allowing, and sometimes restraining it; till at last Arcadius, who had at first permitted it, revoked his license, and finally abolished it; allowing other sports for the diversion of the people, but denying them this[61], as a base and unseemly spectacle. And under that character St. Chrysostom[62] and others, with their utmost force and vehemence, declaim against it.

As also all excess of riot and intemperance for the same reason.

13. For the same reason they made sharp invectives against luxury, and riot, and intemperance, not only as they were crimes in themselves, but as they were the avenues and inlets to the greater sins of uncleanness. And therefore, though they did not punish every single act of drunkenness and excess with excommunication, yet they thought it proper to bring habits and customs of such sins under public discipline and censure. It is an observation of Tertullian[63], and a very true one, 'that drunkenness and lust are two devils, combining and conspiring together. Bacchus and Venus are nearly allied, and too well agreed.' 'Drunkenness,' says one of the ancient Canons[64], 'is the fomenter and nurse of all vices.' And therefore it was ordered, 'that if any clergyman, of the lowest degree, was found guilty of any single act of it, he should either be suspended from communion for thirty days, or be subject to corporal punishment for his offence.' This we find decreed in the Councils of Agde and Vannes, as a standing rule in the French Church. And there goes a decree, under the name of Pope Eutychian[65],

[61] Cod. Theod. lib. 15. tit. 6. de Maiuma, leg. 2. (t. 5. p. 358.) Maiumam fœdum atque indecorum spectaculum denegamus.

[62] Hom. 7. in Matth. p. 71. (t. 7. p. 114 a.) .... Εἰς τὴν πηγὴν ἀπέρχη τὴν διαβολικὴν κ. τ. λ.

[63] De Spectacul. c. 10. (p. 77 c.) Veneri et Libero convenit. Duo ista dæmonia conspirata et conjurata inter se sunt ebrietatis et libidinis.

[64] C. Venet. c. 13. (t. 4. p. 1056 d.) ...Ebrietas omnium vitiorum fomes ac nutrix est .... Itaque [clericum] quem ebrium esse constiterit, aut triginta dierum spatio a communione statuimus submovendum, aut corporali subdendum esse supplicio. —Conf. C. Agathens. c. 41., iisdem verbis. (ibid. p. 1390 b.)

[65] Decret. 9. Ut malum ebrietatis omnino vitetur. Ap. Crabb. t. 1. p. 180. (ap. Labb. t. 1. p. 922 e.) .... Qui autem hoc vitare noluerit, excommunicandum esse decrevimus usque ad congruam emendationem. —Vid. CC. Apost. 41, 42. (Cotel. [42, 43.] v. 1. p. 443.) Ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος κύβοις σχολάζων, καὶ μέθαις, κ. τ. λ.

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which makes the habit of drunkenness matter of excommunication to a layman also, till he break off the custom by reformation and amendment. But it must be owned this vice was sometimes so general and epidemical, that the numbers of transgressors made the exactness of discipline impracticable. St. Austin[66] complains and laments that it was so in Afric in his time. 'Though the Apostle had condemned three great and detestable vices in one place, [Rom. 13, 13.] viz. "rioting and drunkenness, chambering and wantonness, strife and envying:" yet matters were come to that pass with men, that two of the three, drunkenness and strife, were thought tolerable things, whilst wantonness only was esteemed worthy of excommunication; and there was some danger that in a little time the other two might be reputed no vices at all. For rioting and drunkenness was esteemed so harmless and allowable a thing, that men not only practised it in their own houses every day, but in the memorials of the holy martyrs on solemn festivals, and that in pretended honour to the martyrs also; which was a thing that every one must needs lament, who did not look with carnal eyes upon it.' It is plain St. Austin thought an habitual course of rioting and drunkenness a crime deserving excommunication, as well as fornication and adultery; but yet in regard to the great numbers that were given to this sin, his advice[67] to Aurelius, the metropolitan of Afric, is, 'that it should

[66] Ep. 64. [al. 22.] (t. 2. p. 27 f.) Cum enim Apostolus tria breviter genera vitiorum detestanda et vitanda uno in loco posuerit, de quibus innumerabilium vitiorum exsurgit seges, unum horum, quod secundo loco posuit, acerrime in ecclesia vindicatur: duo autem reliqua id est primum et ultimum, tolerabilia videntur hominibus, atque ita paullatim fieri potest, ut nec vitia jam putentur. Ait enim vas electionis, *Non in comessationibus et ebrietatibus, non in cubilibus et impudicitiis, non in contentione et dolo: sed induite vos Dominum Jesum Christum: et carnis curam ne feceritis in concupiscentiis.* Horum ergo trium, cubilia et impudicitiæ tam magnum crimen putantur, ut nemo dignus non modo ecclesiastico ministerio, sed ipsa etiam sacramentorum communione videatur, qui se isto peccato maculavit. Et recte omnino. Sed quare solum? Comessationes enim et ebrietates ita concessæ et licitæ putantur, ut in honorem etiam beatissimorum martyrum, non solum per dies solemnes, quod ipsum quis non lugendum videat, qui hæc non carnis oculis inspicit? sed etiam quotidie celebrentur.

[67] Ibid. (p. 28 f.) Non ergo aspere, quantum existimo, non duriter, non modo imperioso ista tolluntur, magis docendo quam jubendo, magis monendo quam minando. Sic enim agendum est cum multitudine; severitas autem exercenda est in peccata paucorum.

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be cured not with asperity and roughness, nor in the imperious way, but by teaching rather than commanding, and by admonition rather than commination. For so we must deal with a multitude; but the severity of discipline is only to be exercised upon sins, when the number of sinners is not very great.'

So that we may conclude that rioting and drunkenness was one of those great crimes for which men were put to do public penance in the church, except when the multitude and combination of sinners made it not feasible, and obliged the Church to take other measures to correct it.

And promiscuous bathing of men and women together.

14. It must also be noted upon this head, that as a preservative of modesty and chastity, both the canon and civil law prohibited men and women to go promiscuously into the same baths together. 'Let not a woman go to wash in the same bath with men,' says the Author of the Constitutions[68]. And the Council of Laodicea[69], 'Neither clergyman, nor ascetic, nor layman, shall wash in the same bath with women: for this is extremely scandalous, and culpable even among the Gentiles.' The Council of Trullo repeats this canon word for word[70], and then adds, in the close; 'If any clergyman be found guilty of this practice, he shall be deposed; if a layman, let him be excommunicated.' The observation made in these canons, 'that this was a scandalous crime even among the Heathens,' is confirmed out of the old Roman laws and writers. Varro[71] says, 'the ancient baths were divided into two distinct buildings or apartments, one for the men and the other for the women to wash in.' And the same account is given by Vitruvius[72], and Charisius[73], and other writers. And when the de-

[68] L. 1. c. 9. (Cotel. v. 1. p. 209.) Ἀνδρόγυνον γυνὴ πιστὴ μὴ λουέσθω.

[69] C. 30. (t. 1. p. 1051 d.) Ὅτι οὐ δεῖ ἱερατικοὺς, ἢ κληρικοὺς, ἢ ἀσκητὰς, ἐν βαλανείῳ μετὰ γυναικῶν ἀπολούεσθαι, μηδὲ πάντα Χριστιανὸν, ἢ λαϊκόν· αὕτη γὰρ πρώτη κατάγνωσις παρὰ τοῖς ἔθνεσιν.

[70] C. 77. (t. 6. p. 1175 d.) Εἰ δέ τις ἐπὶ τούτῳ φωραθείη, εἰ μὲν κληρικὸς εἴη, καθαιρείσθω· εἰ δὲ λαϊκὸς, ἀφοριζέσθω.

[71] De Ling. Lat. l. 8. (p. 115.)... Publice ibi concedit ubi bina essent conjuncta ædificia lavandi causa; unum ubi viri, alterum ubi mulieres lavarentur.

[72] De Architect. l. 5. c. 10. (p. 201.) Item est animadvertendum, uti caldaria muliebria viriliaque conjuncta et in iisdem regionibus sunt collocata. Sic enim efficietur, ut in vasaria ex hypocausto communis sit usus eorum utrisque.—[Conf. Castalion. in loc. (ibid. c. 203.) citing Varro as above. See the preceding note. Ed.]

[73] Grammat. l. 1. ap. Savar. Not. in Sidonium. l. 2. Ep. 2. (p. 108. sub. med.) Quæ [balnea], cum in-

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generacy of the following ages began to confound this distinction, Spartian[74] says, Adrian made a law against promiscuous bathing. And Julius Capitolinus[75] says the same of Antoninus Philosophus. Nay, the old Romans were so careful to preserve modesty in this matter, that Tully[76] says, 'They did not allow a son to bathe with his father, nor a son-in-law with his father-in-law: nature itself teaching men that there was a decency to be observed in making such distinctions.' And the same thing is related by Valerius Maximus[77], and much commended by St. Ambrose[78].

Now the case standing thus even among the Heathens, it would have been extremely scandalous for the Christians to have permitted promiscuous bathing; and therefore they prohibited it by their ecclesiastical laws under the severe penalty of excommunication. And the imperial laws of Justinian carried the matter a little further: for among other lawful causes of divorce, authorizing a man to put away his wife, he allows[79] this to be one, 'If a woman be so intemperate and luxurious as to go into a common bath with men.' Private writers declaim much against it. Epiphanius[80] condemns it in the Jews; and

valescente luxuria communia et promiscua essent, separavit Adrianus auctore Spartiano, &c.—Dempster. Paralipom. ad Rosin. Antiq. Rom. l. 1. c. 14. (p. 142 e. 3.) Jam vero promiscua non fuisse balnea, sed viros sua a mulieribus discreta separataque habuisse, notissimum, &c.

[74] Vit. Adrian. c. 19. p. 25. (int. Aug. Hist. Scriptor. p. 83.) Lavacra pro sexibus separavit.

[75] Vit. Antonin. c. 23. p. 90. (ibid. p. 205.) Lavacra mixta submovit.

[76] Vid. de Offic. l. 1. n. 129. [al. 35.] (v. 15. p. 3516.) Nostro quidem more cum parentibus puberes filii, cum soceris generi, non lavantur. Retinenda est igitur hujus generis verecundia, præsertim natura ipsa magistra et duce.

[77] L. 2. c. 1. n. 7. (Antw. 1621. p. 48.).. Aliquamdiu nec pater cum filio pubere, nec socer cum genero, lavabatur.

[78] De Offic. l. 1. c. 18. (t. 2. p. 22 d. n. 79.) Mos vetus et in urbe Roma et in plerisque civitatibus fuit, ut filii puberes cum parentibus, vel generi cum soceris, non lavarent, ne paternæ reverentiæ auctoritas minueretur: licet plerique se et in lavacro quantum possunt tegant; ne vel illic, ubi nudum totum est corpus, hujusmodi intecta sit portio.

[79] Cod. l. 5. tit. 17. de Repudiis, leg. 11. (t. 4. p. 1247.) Inter culpas autem [viri et] uxoris constitutionibus enumeratas, et has adjicimus; si forte uxor.... ita luxuriosa est, ut commune lavacrum cum viris libidinis causa habere audeat.—Novel. 22. c. 16. n. 1. (t. 5. p. 169.)...Vel tanta libido est, ut etiam cum viris voluptatis occasione lavetur:... licentia datur a nobis viris mittere eis repudia, &c.

[80] Hær. 30. Ebion. n. 7. (t. 1. p. 131 c.) *Ἀνδρόγυνά ἐκεῖσε λούονται. Κατὰ συγκυρίαν δὲ γυνή τις ἐλευθέρα ἔτυχεν ἐν τῷ λουτρῷ, κάλλει διαπρέπουσα εὐφορμίας· καὶ ὁ νεώτερος θελχθεὶς τῷ ἔθει τῆς αὐτοῦ ἀκολασίας,*

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Cyprian[81] not only censures this, but many other acts of immodesty in virgins, as painting, and over-nice dressing, and appearing unveiled, against which also Tertullian has a whole Discourse[82], with some other indications of a loose and unguarded mind, which need not here be particularly mentioned or further pursued.

I purposely also pass over the scandalous practice of some, who entertained their *agapetæ*, or *love-sisters*, as they called them, with professions of the strictest innocence and virtue; because I have formerly had occasion to show[83] with what severity the ancient rules condemned this as a most suspicious and intolerable practice, and perfectly against the laws of the Gospel, which oblige men not only to regard the preservation of their innocence, but their good name; "to mind things that are honest," that is, becoming and honourable, "and of good report;" "to provide for honest things not only in the sight of God, but also in the sight of men;" and "to abstain from all appearance of evil." In regard to which precepts, the ancient rules not only censured open fornication and adultery, but all such indecent actions as had any tendency towards them, or were justly liable to suspicion, and gave occasion to the adversary to speak reproachfully of that holy religion, the honour of which Christians were obliged to maintain in all purity, as well in word as outward conversation; avoiding this, that no one should blame them, and managing their whole deportment with innocence and prudence, to answer those great precepts of the Gospel, "Give no offence, neither to the Jews, nor to the Gentiles, nor to the Church of God:" [1 Cor. 10, 32.] and "Let

διῶν ἐν τῷ ἀέρι, παρενέτριψεν αὐτοῦ τὴν πλευρὰν τῇ πλευρᾷ τοῦ γυναίου· ἡ δὲ ἑαυτὴν ἐσφραγίσατο εἰς ὄνομα Χριστοῦ, οἷα δὲ Χριστιανὴ οὖσα, ᾗ οὔτε ἀνάγκη ἦν παρανομεῖν, καὶ ἀνδρογύνως λούεσθαι.

[81] De Habitu Virginum, p. 100, &c. (p. 73.) Quid vero, quæ promiscuas balneas adeunt, quæ, oculis ad libidinem curiosis, pudori ac pudicitiæ corpora dicata prostituunt, quæ cum viros atque a viris nudæ vident turpiter ac videntur, nonne ipsæ illecebram vitiis præstant? nonne ad corruptelam et injuriam suam desideria præsentium solicitant et invitant? Viderit, inquis, qua illuc mente quis veniat: mihi tantum reficiendi corpusculi cura est et lavandi. Non te purgat ista defensio, nec lasciviæ et petulantiæ crimen excusat. Sordidat lavatio ista, non abluit; nec emundat membra, sed maculat. Impudice tu neminem conspicis, sed ipsa conspiceris impudice: oculos tuos turpi oblectatione non polluis; sed, dum oblectas alios, ipsa pollueris.

[82] De Virginibus Velandis. (pp. 172 a, seqq.)

[83] B. 6. ch. 2. s. 13. v. 2. p. 224.

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your light so shine before men, that they may see your good works, and glorify your Father which is in heaven." [Matth. 5, 16.]

And promiscuous and lascivious dancing, wanton songs, &c.

15. For the same reason they prohibited all promiscuous and lascivious dancing of men and women together. The Council of Laodicea forbids it under the name of *βαλλίζειν*[84], which some interpret *playing on cymbals* or *other musical instruments*, but more commonly it is understood by learned men[85] as a prohibition of wanton dancing at marriage feasts, against which there are several other canons of the ancient Councils, and severe invectives of the Fathers. The third Council of Toledo[86] forbids it under the name of *ballimathiæ*, which they interpret *wanton dances*, joining them with 'lascivious songs,' the use of which they complain of[87] 'as an irreligious custom prevailing in Spain among the common people on the solemn festivals;' which they order 'to be corrected both by the ecclesiastical and secular judges.' The Council of Agde[88] forbids the clergy to be present at such marriages,

[84] C. 53. (t. 1. p. 1505 c.) Ὅτι οὐ δεῖ Χριστιανοὺς εἰς γάμους ἀπερχομένους βαλλίζειν ἢ ὀρχεῖσθαι, ἀλλὰ σεμνῶς δειπνεῖν ἢ ἀριστᾷν, ὡς πρέπει Χριστιανοῖς.

[85] Suicer. Thes. Eccles. voc. Βαλλίζειν. (t. 1. p. 620.) Βαλλίζειν proprie est *jacere*, vel *jactare*. Hinc *βαλλίζειν χεῖρας* et *βάλλειν χεῖρας*, *manus jactare*, quod saltantes faciunt. Manus enim *jactare*, *saltare* est. Ovidius: Et faciles jactant ad sua verba manus.—Rivetus in Decalog. p. 338. (t. 1. pp. 1407–1409.) *De Saltationibus et Choreis.*—Stuckius, Antiquit. Convival. l. 3. c. 21. (t. 1. p. 608.) Βαλλίζειν . . . *tripudiare pedibus plaudere, tripudiantium more saltare* significat, *κωμάζειν, καὶ χορεύειν*, &c.

[86] In Edicto Regis Reccaredi. (juxt. Ed. Crabb. t. 2. p. 172.) Quod ballimathiæ et turpia cantica prohibenda sunt a sanctorum solemniis. [Labbe and Cossart (tit. 23. t. 5. p. 1009 b.) read *vallemantiæ* et turpes cantici. See ibid. in the margin.—See also Du Fresne, Med. et Infim. Latinit. (Paris. 1733. t. 6. col. 1405.) Vallemacia, saltatio. Vide *ballare*. (ibid. t. 1. col. 947.) Ballare, vallare, saltare, choreas ducere, &c.—Ibid. (col. 948.) in voce, *Ballimathia*. Cymbala, acetabula sunt, &c. . . . Titulus canonis 23. C. Toletani III. *Quod ballimathiæ, &c.* Alii editores habent ballimanthiæ, quasi indicantur divinationes, quæ per saltationes fiunt. At in ipso canone saltationes tantum et turpia cantica vetantur in sanctorum solemnitatibus; ut in C. Romano sub Eugenio II. & PP. Sed legendum videtur *ballismatia* ex Græco *βαλλισμάτιον*: nam in Glossis *βαλλίζειν* est *ballare; βάλισμα* seu *βάλλισμα, gressus, pas de dance, &c.* Ed.]

[87] Ibid. c. 23. juxt. Crabb. p. 171. (Labb. t. 5. p. 2014 [corrige, 1014.] e.) Irreligiosa consuetudo est, quam vulgus per sanctorum solemnitates agere consuevit. Populi, qui debent officia divina attendere, saltationibus turpibus invigilant: cantica non solum mala canentes [al. canticis; non solum sibi nocentes], sed et religiosorum officiis perstrepentes. Hoc etenim ut ab omni Hispania depellatur sacerdotum et judicum a concilio sancto curiæ committitur.

[88] C. 39. (t. 4. p. 1390 a.) Nec his cœtibus misceantur, ubi amatoria

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where obscene love-songs were sung, or obscene motions of the body were used in dancing. And by another canon[8] 'if they use any scurrility or filthy jesting themselves, they are to be removed from their office.' The like canons occur in the Council of Lerida[90] and some others, forbidding to sing or dance at marriages, but feast with modesty and gravity as becomes Christians. St. Ambrose excellently describes the immodesty of this sort of dancing used by drunken women: 'They lead up dances in the streets,' says he[91], 'unbecoming men in the sight of intemperate youths, tossing their hair, dragging their garments flying open, with their arms uncovered, clapping their hands, dancing with their feet, loud and clamorous in their voices, irritating and provoking youthful lusts by their theatrical motions, their petulant eyes, and unseemly antics and fooleries. Meanwhile a crowd of youth stands gazing upon them, and so it is a miserable spectacle indeed.'

St. Chrysostom[92] has abundance to the same purpose, parti-

cantantur et turpia, aut obscœni motus corporis choreis et saltationibus [al. corporum choris et saltibus] efferuntur, &c.

[89] C. 70. (ibid. 1394 c.) Clericum scurrilem et verbis turpibus joculatorem ab officio retrahendum.

[90] Ap. Crabb. t. 1. p. 1031. [Decretum 2. desumptum ex l. 9. Libri Sexdecim Librorum, c. 4.] (ap. Labb. ibid. p. 1619 [corrige, 1616.] b.) Quod non oporteat Christianos euntes ad nuptias plaudere vel saltare, &c.

[91] De Elia et Jejuniis, c. 18. (t. 1. (p. 555 d. n. 66.) Illæ in plateis inverecundos viris sub conspectu adolescentulorum intemperantium choros ducunt, jactantes comam, trahentes tunicas, scissæ amictus, nudæ lacertos, plaudentes manibus, saltantes pedibus, personantes vocibus, &c.

[92] Hom. 48. in Gen. p. 680. (t. 4. p. 490 d.) Ἐνταῦθα σκόπει μοι, ἀγαπητέ, πῶς οὐδαμοῦ τὰ περιττὰ ταῦτα καὶ ἀνόνητα, οὐδαμοῦ πομπὴ διαβολική, οὐδαμοῦ κύμβαλα καὶ αὐλοὶ καὶ χορείαι, καὶ τὰ σατανικὰ ἐκεῖνα συμπόσια, καὶ αἱ λοιδορίαι αἱ πάσης ἀσχημοσύνης γέμουσαι, ἀλλὰ πᾶσα σεμνότης, πᾶσα σοφία, πᾶσα ἐπιείκεια. Εἰσῆλθε δέ, φησιν, Ἰσαὰκ εἰς τὸν οἶκον τῆς μητρὸς αὐτοῦ, καὶ ἔλαβε τὴν Ῥεβέκκαν, . . . Ταύτην μιμείσθωσαν αἱ γυναῖκες· τοῦτον ζηλούτωσαν ἄνδρες· οὕτω τὰς νύμφας ἀγαγέσθαι σπουδαζέτωσαν. Τίνος γὰρ ἕνεκεν, εἰπέ μοι, ἐξ ἀρχῆς καὶ ἐκ προοιμίων κηλίδων πληρῶσαι συγχωρεῖς τῆς κόρης τὰς ἀκοὰς διὰ τῶν αἰσχρῶν ᾀσμάτων, διὰ τῆς ἀκαίρου πόμπης ἐκείνης, κ. τ. λ.— Hom. 56. in Gen. p. 740. (ibid. p. 539 c.) Εἶδες τὸ παλαιὸν, μεθ' ὅσης σεμνότητος τοὺς γάμους ἐπετέλουν· ἀκούσατε οἱ περὶ τὰς σατανικὰς πομπὰς ἐπτοημένοι, καὶ ἐξ αὐτῶν τῶν προοιμίων τὰ σεμνὰ τοῦ γάμου καταισχύνοντες. Μήπου αὐλοί; μήπου κύμβαλα; μήπου χορείαι σατανικαί; κ.τ.λ. — Hom. 49. in Matth. p. 436. [Bened. 48. al. 49.] (t. 7. p. 497 b.) Ἀκούσατε τῶν παρθένων, μᾶλλον δὲ καὶ τῶν γεγαμημένων, ὅσαι ἐν τοῖς ἑτέρων γάμοις τοιαῦτα ἀσχημονεῖν καταδέχεσθε, ἁλλόμεναι καὶ πηδῶσαι, καὶ τὴν κοινὴν καταισχύνουσαι φύσιν. Ἀκούσατε καὶ ἄνδρες, ὅσοι τὰ πολυτελῆ συμπόσια καὶ μέθης γέμοντα διώκετε· καὶ δείσατε τοῦ Διαβόλου τὸ βάραθρον, κ. τ. λ.— Hom. 12. in Col. p. 1403. (t. 11. p. 418 a. & p. 419 b.) Πάντως ἄσχημον

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cularly in one of his Homilies[93] he declaims against it as one of those pomps of Satan which men renounced in their baptism. He says, 'The devil is present at such a time, being called thither by the songs of harlots, and obscene words, and diabolical pomps used upon such occasions.' And in another Homily, speaking of the dancing of Herodias's daughter, he says, 'Christians now do not deliver up half a kingdom, nor another man's head, but their own souls to inevitable destruction.' By which it appears that these dancings were causes of great corruption, being mixed with ribaldry and lascivious songs and wanton gestures, which are incentives to impurity, and wholly unhinge the frame of the Christian temper: for which reason the Ancients are so frequent and copious and severe in their invectives against them.

All promiscuous clothing.

16. Some canons also severely condemn the promiscuous use of habits, or men and women interchanging their apparel peculiarly appropriated to their different sexes. Eustathius taught his she-disciples to wear the habit of men, under the pretence of religion; and cut off their hair upon the like superstitious reason. But the Council of Gangra condemned both these practices as great irregularities, confounding the order of nature, and laid the heavy censure of *anathema* upon them. 'If any woman,' says one canon[94], 'under pretence of leading

καὶ αἰσχρὸν, μαλακοὺς ἄνδρας καὶ ὀρχουμένους καὶ πᾶσαν τὴν πομπὴν τὴν σατανικὴν ἐπεισάγειν τῇ οἰκίᾳ. . . . Ἂν τοίνυν, φησὶ, μήτε παρθένοι ὀρχῶνται, μήτε γεγαμημέναι, τίς ὀρχήσεται; Μηδείς· ποία γὰρ ὀρχήσεως ἀνάγκη; ἐν τοῖς τῶν Ἑλλήνων μυστηρίοις αἱ ὀρχήσεις· ἐν δὲ τοῖς ἡμετέροις σιγὴ καὶ εὐκοσμία, αἰδὼς καὶ καταστολή.—Hom. 19. de Scortat. t. 5. p. 269. (t. 3. p. 195 a.) *Γάμος δὲ πορνείας ἀναιρετικὸν φάρμακον. Μὴ τοίνυν αὐτὸν ἀτιμάζωμεν ταῖς διαβολικαῖς πομπαῖς . . . Ἂν τοίνυν τὸν Διάβολον ἀπελάσῃς, ἂν τὰ πορνικὰ ᾄσματα, καὶ τὰ κεκλασμένα μέλη, καὶ τὰς ἀτάκτους χορείας, καὶ τὰ αἰσχρὰ ῥήματα, καὶ τὴν διαβολικὴν πομπὴν, καὶ τὸν θόρυβον, καὶ τὸν κεχυμένον γέλωτα, καὶ τὴν λοιπὴν ἐξελάσῃς ἀσχημοσύνην, εἰσαγάγῃς δὲ τοὺς ἁγίους Χριστοῦ δούλους, καὶ ὁ Χριστὸς δι' αὐτῶν παρέσται πάντως μετὰ τῆς μητρὸς καὶ τῶν ἀδελφῶν.*

[93] Hom. 47. in Julian. Mart. t. 1. p. 613. (t. 2. p. 678 e.) *Ὅτι χοροὶ ἀνδρῶν αὔριον τὸ προάστειον καταλαμβάνουσιν· ἡ δὲ τῶν τοιούτων ὄψις καὶ τὸν βουλόμενον σωφρονεῖν ἄκοντα ὑπεξάγει πολλάκις πρὸς τὴν τῆς αὐτῆς ἀσχημοσύνης μίμησιν· καὶ μάλιστα ὅταν καὶ ὁ Διάβολος μέσος ἐκείνοις παρῇ· καὶ γὰρ πάρεστιν ὑπὸ τῶν πορνικῶν ᾀσμάτων, ὑπὸ τῶν αἰσχρῶν ῥημάτων, ὑπὸ τῆς δαιμονικῆς πομπῆς καλούμενος.*—Hom. 23. de Noviluniis. t. 1. p. 296. [Bened. in Kalend.] (t. 1. p. 698 c.) *Αἱ γὰρ διαβολικαὶ παννυχίδες, αἱ γινόμεναι τήμερον, καὶ τὰ σκώμματα, καὶ αἱ λοιδορίαι, καὶ αἱ χορείαι αἱ νυκτεριναὶ, καὶ ἡ καταγέλαστος αὕτη κωμῳδία, παντὸς πολεμίου [χαλεπώτερον, Ben. & Sav. omitting μᾶλλον] τὴν πόλιν ἡμῶν [μᾶλλον] ἐξηχμαλώτισε.*

[94] C. 13. (t. 2. p. 419 e.) *Εἴ τις γυνὴ διὰ νομιζομένην ἄσκησιν μεταβάλλοιτο ἀμφίασμα, καὶ ἀντὶ τοῦ εἰω-*

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an ascetic life, change her apparel, and instead of the accustomed habit of women take that of men, let her be *anathema.*' And another[95], 'If any woman upon the account of an ascetic life cut off her hair, which God has given her as a memorial of subjection, let her be *anathema*, as one that annuls the decree of subjection.' The foundation of this canon was the order given by St. Paul, (1 Cor. 11, 5–16.) "That a woman should not be shorn or shaven." And the foundation of the former canon was the rule given by God to the Jews, (Deut. 22, 5.) "The woman shall not wear that which pertaineth to a man, neither shall a man put on a woman's garment: for all that do so are abomination to the Lord thy God." Which the ancient writers, Cyprian[96], Tertullian[97], and many others[98], understand simply and universally of men and women interchanging habits, as was usually done in stage plays, which they condemned for this reason as for many others. Some modern interpreters[99], after Lyra[1] and Maimonides[2], think there was

θότος γυναικείου ἀμφιάσματος ἀνδρεῖον ἀναλάβοι, ἀνάθεμα ἔστω.

[95] C. 17. (ibid. 424 b.) Εἴ τις γυναικῶν διὰ τὴν νομιζομένην ἄσκησιν ἀποκείροιτο τὰς κόμας, ἃς ἔδωκεν ὁ Θεὸς εἰς ὑπόμνησιν τῆς ὑποταγῆς, ὡς ἀναλύουσα τὸ πρόσταγμα τῆς ὑποταγῆς, ἀνάθεμα ἔστω.

[96] Ep. 62. [al. 2.] ad Eucratium. (p. 171.) Nam cum in Lege prohibeantur viri induere muliebrem vestem, et maledicti ejusmodi judicentur; quanto majoris est criminis, non tantum muliebria indumenta accipere; sed et gestus quoque turpes et molles et muliebres magisterio impudicæ artis exprimere.

[97] De Spectac. c. 23. (p. 82 d.)... Cum in Lege præscribit maledictum esse qui muliebribus vestietur, quid de pantomimo judicabit, qui etiam muliebribus curatur?

[98] See Prynne's Histriomastix, act. 5. scen. 6. (p. 178 and onwards.) The third thing considerable, &c.

[99] Spencer, de Legib. Hebr. l. 2. c. 17. [al. 29.] n. 1. (t. 1. p. 523.) Sentiunt alii, lege hac de sexus utriusque vestitu lata, Deum ritum aliquem Zabiorum religione sacrum vetuisse. Hi Maimonidem ducem sequuntur, qui sic legem explicat, quasi cultus idololatricus et numinis alicujus (maris et fœminæ) sacra, magis quam ipsa vestium commutatio vel sexus dissimulatio, hic prohiberetur. Auctoris ipsius verba, Latine reddita, sic sonant: *Invenies, etc.* (See n. 2, following.) Huic opinioni assensum præbeo.

[1] In Deut. 22. (t. 1. p. 1596. n. 4.) *Non induetur mulier veste virili.* Quod exponunt doctores aliqui, et bene ut credo, quod hoc intelligitur de armis, quibus viri utuntur. Unde in Hebræo habetur: *Non erit vas viri super mulierem.* Et accipitur hic vas, ut alibi in Scriptura, pro armatura; nam 1 Reg. 20. dicitur de Jonatha, quod tradidit puero arma sua. In Hebræo habetur כלים *chelem*, id est, *Vasa sua.* Prohibetur autem hic, quod mulier non portet arma viri: tum quia est indecens mulieri et præsumptuosum: tum quia pro tunc erat superstitiosum, quia gentiles mulieres in sacris Martis portabant arma viri: et in sacris Veneris viri portabant ornamenta mulierum et instrumenta earum, utpote colum, fusum, et similia.

[2] More Nevochim, part. 3. c. 37. (p. 447.) Sic eadem causa subest in illo, quod dicitur, *Ne mulier induat ves-*

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a further design in this precept, to prohibit the idolatry of the ancient Zabii, in whose magical books it was commanded that men should put on the women's painted garments, when they stood to worship before the star of Venus; and that women should put on the men's warlike habit and instruments, when they appeared before the star of Mars. But, as the ancient Christian writers were not acquainted with this interpretation, we have reason to believe they took the rule in the common and vulgar sense, as an universal prohibition of men and women interchanging habits in all cases whatsoever: it being 'a thing against the light of nature and the laws of reason,' as Diogenes Laertius[3] words it in the Life of Plato, 'for any one to walk naked in public, or for a man to wear the woman's clothing.' And for this reason the Ancients prohibited it as an indecent and shameful thing, and as ministering occasion to uncleanness, even when it was used under pretence of greater strictness in religion.

And suspected vigils, or pernoctations of women in churches, under pretence of devotion.

17. And for the same reason the ancient Council of Eliberis[4] forbad women to keep private vigils or night-watches in the dormitories or churches; because often, under pretence of prayer and colour of devotion, secret wickedness had been committed by them. This seems to be the most rational account that can be given of the meaning and reason of this canon, that it was intended to cut off the occasion of lewdness and uncleanness, however artfully disguised under the mask of greater strictness in religion; there being nothing that could reflect more dishonour on the Christian name than the allowing such opportunities of sin, under the feigned pretence of piety and devotion, in their churches.

timenta viri, etc. Invenies enim in libro מומום præcipi, ut mulier [leg. vir] gestet vestimentum muliebre coloratum, quando stat coram stella Veneris: similiter, ut mulier induat loricam et arma bellica, quando stat coram stella Martis.

[3] L. 3. Vit. Platon. p. 131. (p. 89 e. 6.) *Νόμου διαιρέσεις δύο· ὁ μὲν γὰρ αὐτοῦ, γεγραμμένος· ὁ δὲ, ἄγραφος· ᾧ μὲν ἐν ταῖς πόλεσι πολιτευόμεθα, γεγραμμένος ἐστίν· ὁ δὲ κατὰ ἔθη γενόμενος, οὗτος ἄγραφος καλεῖται· οἷον, τὸ μὴ γυμνὸν πορεύεσθαι εἰς τὴν ἀγορὰν, μηδὲ γυναικεῖον ἱμάτιον περιβάλλεσθαι· ταῦτα γὰρ οὐδεὶς νόμος κωλύει, ἀλλ' ὅμως οὐ πράττομεν, διὰ τὸ ἀγράφῳ νόμῳ κωλύεσθαι.*

[4] C. 35. (t. 1. p. 974 d.) Placuit prohiberi, ne fœminæ in cœmeterio pervigilent; eo quod sæpe sub obtentu orationis latenter scelera committant.

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CHAP. XII.

Of great transgressions of the Eighth Commandment, theft, oppression, usury, perverting of justice, fraud and deceit in trust and traffic, &c.

1. The design of the Eighth Commandment is to secure men in the quiet possession of their own rights and properties, or whatever they have a just title to by the laws of God and the community where they dwell. And, therefore as many ways as these rights may be invaded or impaired, so many ways there are of committing robbery and transgressing this command.

Of those who taught the doctrine of renunciation, or having all things common.

There were in the ancient Church some heretics, who, under pretence of greater heights in religion, would allow no men to possess any thing as their own right and property in this world; but obliged all men to renounce their title to every thing, and to have all things in common; pronouncing a peremptory sentence against all rich men, that unless they gave up their possessions, and forsook all that they enjoyed, they could not enter into the kingdom of heaven. These men called themselves *Apotactici*, from *renouncing* the world; and *Apostolici*, from their pretended imitation of the *Apostles;* and *Encratitæ*, from their ostentation of *temperance* and *abstinence* above other men. St. Austin[1] says, they would receive none into their communion that lived in the conjugal state, or that possessed any thing as their property in this world; they separated from the Church upon this account, and would allow no man to have any hope of salvation, that did not practise as they did; and therefore the Church condemned them as heretics for laying such a doctrinal necessity upon these things, which were left to every man's liberty in practice. The Eustathians maintained the same doctrine, but the Council of Gangra[2] condemned it as heretical, and anathematized the

[1] De Hæres. c. 40. (t. 8. p. 11 e.) Apostolici, qui se isto nomine arrogantissime vocaverunt, eo quod in suam communionem non reciperent utentes conjugibus et res proprias possidentes. Sed ideo isti hæretici sunt, quoniam, se ab ecclesia separantes, nullam spem putant eos habere, qui utuntur his rebus, quibus ipsi carent. Encratitis isti similes sunt, nam et *Apotactitæ* appellantur. —Conf. Epiphan. Hær. 61. Apostol. n. 4. (t. 1. p. 508 d.)

[2] In Præfat. (t. 2. pp. 413 c, seqq.) Ἐπειδὴ, κ. τ. λ.

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authors and defenders of it. So that this was a general sort of invasion of the rights and properties of mankind, robbing them of every thing in an unusual and extraordinary way, not by any open violence or secret stealth, but by turning religion into an art, and inducing men to rob themselves of every thing under pretence of piety and greater heights of devotion. The factors and agents in this cause seem not to have had any design to enrich themselves, but to make all men poor, and bring them to a level, and lay all things common: which was such a scandalous representation of the Christian religion in the eyes of the Heathen, that the Fathers thought they could not be too severe upon it, however it was coloured over with the varnish and disguise of holiness, pretending a great contempt of the world, and a divine and heavenly temper. As therefore they condemned the doctrine for heretical, so they never failed to pursue the abettors of it with the utmost severity of ecclesiastical censure. And the imperial laws[3] concurred with them subjecting these *Apotactites*, or *Renouncers*, to all the civil penalties that were imposed upon heretics in all other cases, except that of confiscation of goods, which signified nothing to those whose very crime consisted in a perverse way of renunciation of all things, which left them nothing to forfeit.

Of plagiary or manstealing.

2. Next to this general sort of robbery, the laws set a particular mark upon that which is commonly called *plagiary* or *manstealing*. The old Roman law condemned such as were guilty of it, either in a pecuniary mulct, or sent them to the mines. But Constantine thought this was not a sufficient punishment for the crime, and therefore he added to it, and

[3] Vid. Cod. Theod. l. 16. tit. 5. de Hæreticis, leg. 7. sect. ult. (t. 6. p. 121.) Nec se sub simulatione fallaciæ eorum scilicet nominum, quibus plerique, ut cognovimus, probatæ fidei et propositi castioris dici ac signari volent, maligna fraude defendant; cum præsertim nonnulli ex his Encratitas, Apotactitas, Hydroparastatas, vel Saccophoros nominari se velint, et varietate nominum diversorum velut religiosæ professionis officia mentiantur. Eos enim omnes convenit, non professione defendi nominum, sed notabiles atque execrandos haberi scelere sectarum.—Ibid. leg. 11. (p. 126.) Omnes omnino, quoscunque diversarum hæresium error exagitat, id est, Eunomiani, Ariani, Macedoniani, Pneumatomachi, Manichæi, Encratitæ, Apotactitæ, Saccophori, Hydroparastatæ, nullis circulis coëant, nullam colligant multitudinem, etc.

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made it capital[4], ordering 'every such criminal to be thrown to the wild beasts in the theatre, and, if they were likely to escape with their lives thence, to be put to death with the sword.' The ecclesiastical laws appoint no particular punishment for this crime: but it being of the same nature with murder in the law of God, it may be supposed that the penance of murderers was inflicted on those that were found guilty of it.

Of malicious injustice.

3. I take no notice here of sacrilege, because, though that be a species of theft, yet the punishment of that has been considered under another title[5]. The remaining sorts of injustice may be summed up under these four heads:—1. Malicious injustice. 2. Simple theft. 3. Open violence and oppression. 4. Fraud and deceit.

Malicious injustice is doing hurt and prejudice to our neighbour in his goods out of pure hatred and ill-will, when we can do ourselves no benefit or kindness by it. As when men set houses or stacks of corn on fire out of malice and revenge to their neighbours, or poison or kill their cattle, or do them any the like injury in their goods, without reaping any advantage from it, but only gratifying a spiteful and revengeful temper. The old Roman law adjudges all such to be guilty of capital crimes, and particularly those whom they term *incendiaries*[6], who set towns on fire, either out of enmity, or to make plunder and prey of them: which sort of criminals were by way of just retaliation often sentenced to be burnt alive. The ecclesiastical Code of the ancient Church has no particular laws against such[7]; but as their crimes were often a complication of many

[4] Cod. Theod. l. 9. tit. 18. ad Legem Fabiam de Plagiariis, leg. 1. (t. 3. p. 154.) Plagiarii, qui viventium filiorum miserandas infligunt parentibus orbitates, metalli pœna, cum cæteris ante cognitis suppliciis tenebantur. Si quis tamen ejusmodi reus fuerit oblatus, posteaquam super crimine patuerit, servus quidem vel libertate donatus, bestiis primo quoque munere objiciatur. Liber autem sub hac forma in ludum detur gladiatorium, ut, antequam aliquid faciat, quo se defendere possit, gladio consumatur. Eos autem, qui pro hoc crimine jam in metallum dati sunt, nunquam revocari præcipimus.

[5] Ch. 6. ss. 23–27. pp. 307–318.

[6] Digest. l. 48. tit. 19. de Pœnis, leg. 28. n. 12. (t. 3. p. 1554.) Incendiarii capite puniuntur, qui ob inimicitias, vel prædæ causa incenderint intra oppidum, et plerumque vivi exuruntur.

[7] The first ecclesiastical laws against incendiaries I have met with, are the Decrees of Eugenius II. an. 824. c. 9. (CC. t. 7. p. 1542.) Innovamus ut si quis pro vindicta vel odio ignem apposuerit, vel apponi fecerit, non absolvatur, nisi damno, cui intulerit, secundum facultatem suam resarcito, juret se ulterius ignem non appositurum: et pœni-

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great sins; enmity and malice and theft and murder commonly concurring in incendiaries; so it may be presumed their punishment and penance was assigned according to the nature and quality of the several offences, which made up this compound vice, than which few can be conceived more heinous, because it has in it so much of the pure malicious and diabolical temper.

Of simple theft.

4. Simple theft was reckoned among the great crimes which brought men under public penance, and therefore there is the more reason to conclude it of those complicated crimes. St. Austin[8] frequently, in distinguishing between great and small sins, puts theft into the first class of heinous crimes, for which men were to do a more formal penance in the church. And among St. Basil's Canons there is one[9] that particularly specifies the time of penance: 'The thief, if he discover himself, shall do one year's penance; if he be discovered by others, two: half the time he shall be a prostrator, the other half a costander.' Only St. Austin[10] intimates, there were some circumstances in which they were forced to bear with this as well as other sins: he means, when some insuperable difficulties or danger made it either impossible, or unadvisable, to put the discipline of the Church strictly in execution against them.

tentia ei detur, ut Hierosolymis, aut in Hispania, in servitio Dei, per annum pœniteat.—Also Pope Gregory's Decretals, l. 5. tit. 17. (Corp. Jur. Canon. t. 2. p. 1725.) De Raptoribus et Incendiariis et Violatoribus Ecclesiarum.

[8] Tractat. 12. in Ioan. t. 9. p. 47. (t. 3. part 2. p. 390 c.) In dilectione autem ejus et in misericordia ejus qui ambulat, etiam liberatus ab illis lethalibus et grandibus peccatis, qualia sunt facinora, homicidia, furta, adulteria, propter illa, quæ minuta videntur esse peccata linguæ, aut cogitationum, etc.—Tractat. 41. in Eund. p. 126. (ibid. p. 575 a.)... Apostolus Paulus, quando elegit ordinandos vel presbyteros vel diaconos, et quicunque ordinandus est ad præposituram ecclesiæ, non ait, *Si quis sine peccato est:* hoc enim si diceret, omnis homo reprobaretur, nullus ordinaretur: sed ait, *Si quis sine crimine est,* sicuti est homicidium, adulterium, aliqua immunditia fornicationis, furtum, fraus, sacrilegium, et cætera hujusmodi.—Conf. Hom. 27. ex 50. t. 10. p. 177. [al. Serm. 352. c. 3.] (t. 5. p. 1370 g.) Grave vulnus est: adulterium forte commissum est, forte homicidium, forte aliquod sacrilegium, &c. [Simple theft appears not to be distinctly mentioned. Ed.]

[9] C. 61. [Oper. Basil. Ep. 217. Canonic. Tert.] (CC. t. 2. p. 1749 c.) Ὁ κλέψας, εἰ μὲν ἀφ' ἑαυτοῦ μεταμεληθεὶς κατηγορήσει ἑαυτοῦ, ἐνιαυτὸν κωλυθήσεται μόνον [al. ἡμόνης] τῆς κοινωνίας τῶν ἁγιασμάτων· εἰ δὲ ἐλεγχθείη, ἐν δυσὶν ἔτεσιν· μερισθήσεται δὲ αὐτῷ ὁ χρόνος εἰς ὑπόπτωσιν, καὶ σύστασιν, καὶ τότε ἀξιούσθω τῆς κοινωνίας.

[10] Ep. 54. [al. 153. c. 6.] ad Macedon. p. 95. (t. 2. p. 532 f.) Aliquando etiam, si res magis curanda non impedit, sancti altaris communione privamus.

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5. Under this head they reckoned such as detained any lost goods, which they found, from the true proprietor when he could lay a just claim to them. St. Austin [11] expressly condemns this as manifest robbery: 'If thou hast found any thing and not restored it, thou art guilty of robbing the true owner. He that denies what he finds of another man's would take it from him if he could. In this case God examines the heart, and not the hands.' Origen [12] says the same; 'that not to restore what a man finds, is equal to robbery; however some had the vanity to think there was no sin in it, and were ready to ask, to whom should I restore it, seeing God has put it into my hands?' The old Roman laws were much more equitable than the consciences of such; for they reckon it theft to detain what a man finds, even when they know not who is the true owner of it. In which case [13] they direct him to put up a libel of inquiry after the proprietor, and when he is found to take of him what they call εὕρετρα, and μήνυτρα, and σῶστρα, *a reward for finding and saving what was lost:* though this they rather account a dishonourable and scandalous demand, if precisely exacted.

Of detaining lost goods from the true owner.

St. Austin [14] gives a very remarkable instance of this sort of

[11] Serm. 19. de Verb. Apost. t. 10. p. 138. [al. Serm. 178. c. 8.] (t. 5. p. 853 b.) Nam quod invenisti et non reddidisti, rapuisti. Quantum potuisti, fecisti: quia plus non potuisti, ideo non plus fecisti. Qui alienum negat, si possit et tollit [al. si posset, et tolleret] .... Deus enim cor interrogat, non manum.

[12] Hom. 4. in Lev. p. 119. (t. 2. p. 201 b.) Multi enim sine peccato putent esse, si alienum quod invenerint teneant, et dicant, Deus mihi dedit; cui habeo reddere? Discant ergo peccatum hoc esse simile rapinæ, si quis inventa non reddat.

[13] Digest. l. 47. tit. 2. de Furtis, leg. 43. n. 9. (t. 3. p. 1290.) Quid ergo si εὕρετρα, quæ dicunt, petat? Nec hic videtur furtum facere, etsi non probe petat aliquid.

[14] Ubi supra, c. 7. (ibid. p. 852 d.) ..... Dicam quod fecerit pauperrimus homo, nobis apud Mediolanum constitutis; tam pauper, ut proscholus esset grammatici: sed plane Christianus, quamvis ille esset Paganus grammaticus; melior ad velum, quam in cathedra. Invenit sacculum, nisi forte me numerus fallit, cum solidis ferme ducentis: memor legis proposuit pittacium publice. Reddendum enim sciebat; sed cui redderet, ignorabat. Proposuit pittacium publice: Qui solidos perdidit, veniat ad illum locum, et quæret hominem illum. Ille qui plangens circumquaque vagabatur, invento et lecto pittacio, venit ad hominem. Et ne forte quæreret alienum, quæsivit signa, interrogavit sacculi qualitatem, sigillum, solidorum etiam numerum. Et cum omnia ille fideliter respondisset, reddidit quod invenerat. Ille autem repletus gaudio et quærens vicem rependere, tamquam decimas obtulit illi solidos viginti: qui noluit accipere. Obtulit vel decem: noluit accipere. Saltem rogavit vel quinque accipere: noluit ille. Stomachabundus homo projecit saccu-

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generosity in refusing the reward of finding lost goods, in one who was a poor Christian usher to an Heathen schoolmaster at Milan. He found a bag of money about the value of two hundred shillings, and not knowing who was the owner, according to law he put up a libel publicly to inquire after him: for he was sensible he ought to return it, though he knew not as yet to whom. The man who had lost the money upon notice given in the libel comes to him and tells the marks, the condition of the bag, the seal, and the sum, and receives his own again. And with great joy, thankfulness, and gratitude, offers him the tithe, twenty shillings, as his requital and reward; but he would not accept it. He offers him ten; but he would not accept it. He intreats him, however, at least to take five; but he refused. Upon which the man in anger cast down his bag, and said, I have lost nothing: if thou wilt receive nothing of me, I have lost nothing. What a brave contention,' says St. Austin, 'what a prize, what a strife and noble conflict was this, where the whole world was the theatre, and God the spectator! At last the man is subdued by mere importunity, and prevailed upon to accept what was offered him; but he immediately gave it all to the poor, and would not carry one shilling of it home with him to lay up for his own private use.'

By this relation we may judge, how great a crime it was reckoned to conceal or detain what was lost from the right owner, since even the exacting any reward for finding it was reputed dishonourable and scandalous, and some ancient canons set a particular mark of infamy upon it, as a species of filthy lucre. 'Men ought not,' says Gregory Thaumaturgus[15], 'to exact a reward for saving or discovering, or finding any thing that was lost, but to live without filthy lucre.'

Of refusing to pay just debts.

6. They put into the same class all such as refused to pay their just debts, especially such as used any base and sinister

lum: Nihil perdidi, ait: si non vis aliquid a me accipere, nec ego aliquid perdidi. Quale certamen, fratres mei, quale certamen, qualis pugna, qualis conflictus: theatrum mundus, spectator Deus. Victus tandem ille, quod offerebatur accepit: et continuo totum pauperibus erogavit, unum solidum in domo sua non dimisit.

[15] Ep. Canonic. c. 10. ap. Bevereg. Pandect. t. 2. p. 34. (CC. t. 1. p. 841 b.) *Τοὺς δὲ τὴν ἐντολὴν πληροῦντας ἐκτὸς πάσης αἰσχροκερδείας πληροῦν δεῖ, μήτε μήνυτρα, μήτε σώστρα, ἢ εὕρετρα, ἢ ᾧ ὀνόματι καλοῦσιν, ἀπαιτοῦντας.*

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arts to excuse themselves from the payment of them. It was usual with many Jews to pretend to become converts to Christianity, only to shelter themselves from their creditors and the justice of the law in many criminal cases also, by claiming the privilege of sanctuary in the church. To correct which abuse Arcadius made a law [16], 'that no such practice should be allowed: but that they should be repelled from the church, and not be received till they had faithfully discharged all their debts, and demonstrated their innocence in other respects as a necessary qualification for their admission.' In some cases indeed, when men were unable to pay their debts, the Church in charity was inclined to protect them: but then, in that case, she was also obliged to pay their debts, as appears from several laws [17] made in that behalf; and from the instance which St. Austin [18] gives of his own Church paying the debts of one Fascius, who fled from his creditors to her protection: and this case of necessity was very different from that fraudulent and criminal refusal of paying debts when men lay under no such straits and difficulties. As therefore the one was matter of commiseration, and made men objects of pity and compassion: so the other made them odious and abominable as deceitful villains, and rendered them fit objects of legal severity and ecclesiastical censure.

And what men are bound to by the obligation of promise and contract.

7. Among just debts they always reckoned those which men contracted by the obligation of promise and mutual engagements to each other: and therefore all breach of faith in such cases came under the denomination of theft, and was accordingly punished as a species of that transgression. The Council of Eliberis [19] applies this particularly to such parents as break

[16] Cod. Theod. l. 9. tit. 45. De his, qui ad ecclesias confugiunt, leg. 2. (t. 3. p. 360.) Judæi, qui reatu aliquo vel debitis fatigati simulant se Christianæ legi velle conjugi, ut ad ecclesias confugientes vitare possint crimina, vel pondera debitorum, arceantur; nec ante suscipiantur, quam debita universa reddiderint, vel fuerint innocentia demonstrata purgati.

[17] Ibid. leg. 1. (p. 358.) Publicos debitores, si confugiendum ad ecclesias crediderint, aut illico extrahi de latebris oportebit, aut pro his ipsos, qui eos occultare probantur, episcopos exigi.—Vid. leg. 3. ibid. (p. 361.) Si quis in posterum servus, &c.

[18] Ep. 215. [al. 268.] t. 2. p. 901 d, e.) Cum enim frater noster Fascius debito decem et septem solidorum ab oppignoratoribus urgeretur, ut redderet, &c.

[19] C. 54. (t. 1. p. 976 c.) Si qui parentes fidem fregerint sponsaliorum, triennii tempore abstineant se [al. abstineantur] a communione.

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the espousals or ante-nuptial contracts to which they have agreed in behalf of their children: for which offence they are obliged to abstain three years from the communion. This in effect was a robbery committed both upon persons and things, depriving the man of his wife and the woman of her husband, and each of them of all those rights and benefits that might have accrued to them by such matrimonial contracts. For which reason it was ranked among those more heinous thefts, and perfidious injuries offered to men's rights, which were thought to deserve a public censure.

Of removing bounds and landmarks.

8. And among these, the removing or defacing ancient bounds and landmarks was accounted no small crime. Even among the old Romans it was punished as a capital offence. Numa Pompilius divided the Roman fields by certain marks erected of *stone*, which they called *lapides sacri*, because they were *consecrated* to Jupiter; and the covering or transferring these was reckoned such an offence, that any one who was taken in it might lawfully be slain[20] as a sacrilegious person. The law of God lays a curse upon it, (Deut. 27, 17.) "Cursed be he that removeth his neighbour's landmark." Constantine reckons it among those criminal actions which were to be punished in an extraordinary way, as Pithœus[21] and Gothofred[22] have observed from an old remark made upon the Sentences of the famous lawyer Paulus, which says, *In eum, qui per vim terminos dejecerit vel amoverit, extra ordinem animadvertitur:* upon which the annotator says, that the same thing was determined by Constantine in the Theodosian Code. Which makes Gothofred conclude, that either that law is

[20] Vide Calvin. Lexic. Juridic. voce, *Fines.* (p. 377, col. sinistr. im.) Numa Pompilius, rex Romanorum secundus, fundorum finibus, ut suo quisque contentus esset, sacros Jovi lapides apponi jussit, eosque occultantes aut transferentes occidi impune, sacrilegorum instar, voluit.

[21] Annot. in Collat. Leg. Mosaic. et Rom. tit. 13. (p. 170.) Sic apud Paulum scriptum est Libro 1. Sent., ubi in vet. exempl. annotatum reperi idem statui in Codicis Theodosiani l. 2. sub era 26., quæ constitutio hodie desideratur.

[22] Paratitl. in Cod. Theod. l. 2. de Finibus regundis, tit. 26. (t. 1. p. 201.) Cæterum hoc titulo aliquid desiderari ex eo apparet, quod ad tit. 16. l. 1. Sentent. in veteribus exemplaribus annotatur ad hanc Pauli sententiam, *In eum, qui per vim terminos dejecerit vel amoverit, extra ordinem animadvertitur;* annotatur, inquam, idem statui in Cod. Theodos. l. 2. sub era 26. ut annotavit Petrus Pithœus in tit. 13. Collation. Leg. Mosaicar. Quare nisi legem 1. hujus tit. indicari putemus, hic aliquid desideretur, necesse est.

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wanting now in the Theodosian Code, or else that it refers to Constantine's first law under that title, which says, *Invasor ille pœnæ teneatur addictus,—Such an invader shall be liable to punishment,* though the particular manner of punishment be not expressed. However it was a crime of that nature, as to require a peremptory punishment without appeal, as appears from another law of Constantine's in the same Code[23]. The ecclesiastical law always condemned this as a cursed crime from the law of God: "Cursed be he that removeth his neighbour's landmark." [Deut. 27, 17.] And, "Remove not the ancient landmark, which thy fathers have set." [Prov. 22, 28.] Under this title they also censured all such ambitious bishops, as, not content with the limits of their own dioceses, invaded the territory of others, and endeavoured to bring places out of their district under their jurisdiction. Pope Innocent[24], writing to a bishop upon such an occasion, reminds him of what the Scripture has so often said, 'that we ought not to remove the bounds which our fathers have set,' and therefore admonishes him to quit his pretensions, unless he was minded to feel the severity of ecclesiastical censure.

Of oppression.

9. This sort of robbery may also be reckoned under another species of theft, which the law calls *compound theft,* because it joins something of violence or oppression to the robbery. Such as hostile invasion, robbing with arms upon the highway, breaking houses in the night, piracy at sea, cruel exactions of judges, and other public officers, above what the law allows, perverting of justice by bribery or rigorous interpretations of the law, together with extortion and unjust usury. All which the law condemns under the general name of *oppression,* and the ancient canons make it matter of excommunication. The fourth Council of Carthage has one canon[25] forbidding the priests to receive any oblations from those that oppress the

[23] L. 9. tit. 1. de Accusation. leg. 1. (t. 3. p. 3.) ... Quicunque fines aliquos invaserit, publicis legibus subjugetur, neque super ejus nomine ad scientiam nostram referatur.

[24] Ep. 8. ad Florentium. (CC. t. 2. p. 1263 a.) Non semel, sed aliquoties clamat Scriptura divina, transferri non oportere terminos, a patribus constitutos: quia nefas est, si, quod alter semper possederit, alter invadat: quod tuam Bonitatem frater et coëpiscopus noster Ursus asserit perpetrasse.... Quod si verum est, non leviter te culpam incurrisse cognoscas, etc.

[25] C. 94. (ibid. p. 1207 b.) Eorum, qui pauperes opprimunt, dona a sacerdotibus refutanda.

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poor: and another[26], appointing such as denied to the Church the oblations of the dead, or refused to pay them without difficulty and trouble, to be excommunicated, as murderers of the poor. Agreeable to which is that of St. Chrysostom[27], directing his clergy not to admit any cruel or unmerciful man to the Lord's table: 'Although it be a general, although it be a governor or consul, although it be he that wears the crown, prohibit him: thou in this case hast greater power than he.' And again, inveighing against oppressors, who offered alms out of what they had violently taken from others, he says elegantly[28] 'that God will not have his altar covered with tears; Christ will not be fed with robbery; such sort of sustenance is most ungrateful to him: it is an affront to the Lord to offer unclean things to him. He had rather be neglected, and perish by famine in his poor members, than live by such oblations. The one is cruelty, but the other is both cruelty and an affront likewise. It is better to give nothing, than to give that which of right belongs to other men.' After the same manner St. Austin answers[29] the plausible apologies of spoilers and oppressors. Their plea was, 'I make feasts of charity, I send meat to them that are bound in prison, I clothe the naked, I entertain strangers. Do you imagine this is properly giving? Do not take from others, and then you may be said to give. He, to whom you give, rejoices; but he, from whom you take, la-

[26] C. 95. (ibid. b.) Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tanquam egentium necatores excommunicentur.

[27] Hom. 82. al. 83. in Matth. p. 705. (t. 7. p. 789 c.).... *Κἂν στρατηγός τις ᾖ, κἂν ὕπαρχος, κἂν αὐτὸς ὁ τὸ διάδημα περικείμενος, ἀναξίως δὲ προσείη, κώλυσον, μείζονα ἐκείνου τὴν ἐξουσίαν ἔχεις.*

[28] Hom. 86. al. 87. in Matth. p. 722. [Bened. 85. al. 86.] (ibid. p. 808 a.) *Οὐ βούλεται Χριστὸς πλεονεξίᾳ τρέφεσθαι, οὐ δέχεται ταύτην τὴν τροφήν· τί τὸν Δεσπότην ὑβρίζεις ἀκάθαρτα προσάγων αὐτῷ; βέλτιον λιμῷ τηκόμενον περιορᾶν, ἢ τρέφειν ἀπὸ τοιούτων· ἐκεῖνο ὠμοῦ, τοῦτο* [*καὶ ὠμοῦ.* Ben. et Sav.] *καὶ ὑβριστοῦ· βέλτιον μηδὲν δοῦναι, ἢ τὰ ἄλλων ἑτέροις.*

[29] Serm. 19. de Verb. Apost. [al. Serm. 178. c. 4.] (t. 5. p. 850 f.) Sed ait mihi raptor rerum alienarum, Ego similis illius divitis non sum: agapes facio, vinctis in carcere victum mitto, nudos vestio, peregrinos suscipio. Dare te putas? Tollere noli, et dedisti. Cui dederis, gaudet: cui abstuleris, plorat: quem duorum istorum exauditurus est Dominus? Dicis ei, cui dederis, Gratias age, quia accepisti. Sed alter tibi ex alia parte dicit, Ego gemo, cui abstulisti. Et pene totum tenuisti, et exiguum illi dedisti. Si ergo, quod alteri abstulisses, egentibus dedisses, nec talia opera diligit Deus. Dicit tibi Deus, Stulte, jussi, ut dares, sed non de alieno. Si habes, da de tuo: si non habes quod des de tuo, melius nulli dabis, quam alteros spoliabis.

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ments: which of the two will God hear? You say to him to whom you give, Give thanks, because you have received. But he, on the other hand, from whom you have taken it, says, I mourn. You keep almost the whole, and give a small portion to the other. If, therefore, you give to the poor what you take from others, God is not pleased with such works. God says to thee, Thou fool, I commanded thee to give, but not that which is another man's. If thou hast ought, give of that which is thine own: if thou hast not of thine own to give, it is better thou shouldest not give, than spoil some to give to others.' He says in another place[30], 'some were so vain as to think that a little alms before they died would effectually expiate all their sins, however wicked and rapacious they had been all their lives before:' against whom he disputes accurately and sharply in several Books[31], which it would be needless here to cite at large.

I only add, that, agreeable to those rules, the Author of the Constitutions under the name of the Apostles, giving directions to bishops about the persons from whom they were to receive oblations at the altar, or refuse them, among many other criminals, orders[32] them 'to reject those who afflict the widow,

[30] De Civitate Dei, l. 21. c. 22. (t. 7. p. 640 a.) Comperi etiam quosdam putare eos tantummodo arsuros illius æternitate supplicii, qui pro peccatis suis facere dignas eleemosynas negligunt, juxta illud Apostoli Jacobi, *Judicium autem sine misericordia illi, qui non fecit misericordiam.* Qui ergo fecerit, inquiunt, quamvis mores in melius non mutaverit, sed inter ipsas suas eleemosynas nefarie ac nequiter vixerit, judicium illi cum misericordia futurum est, ut aut nulla damnatione plectatur, aut post aliquod tempus, sive parvum sive prolixum, ab illa damnatione liberetur. Ideo Judicem ipsum vivorum atque mortuorum noluisse existimant aliud commemorare se esse dicturum, sive dextris quibus est vitam daturus æternam, sive sinistris quos æterno supplicio est damnaturus, nisi eleemosynas sive factas, sive non factas, &c.

[31] Ibid. l. 21. c. 27. (p. 650 a.) Restat eis respondere, &c.—Enchirid. cc. 75 et 76. (t. 6. pp. 220, 221.) Serm. 35. de Verb. Dom. [al. Serm. 113. c. 2.] (t. 5. p. 568 g. et p. 569 a.) Hoc [scil. mammona iniquitatis] quidam male intelligendo rapiunt res alienas, et aliquid inde pauperibus largiuntur, et putant se facere quod præceptum est... Nolo sic intelligatis. De justis laboribus facite eleemosynas, &c.—Cont. Julian. Pelagian. l. 5. c. 10. (t. 10. p. 649 f, g.).. Nec furta facienda sunt, etiam voluntate pascendi pauperes sanctos: quod tamen faciendum est, non furta perpetrando, sed bene utendo mammona iniquitatis, &c.—Vid. plura ap. Gratian. caus. 14. quæstt. 5 et 6. (t. 1. pp. 1054. 40, seqq.) Nolite velle eleemosynas facere de fœnore et usuris, &c.

[32] L. 4. c. 6. [al. 5.] (Cotel. v. 1. p. 294.) Ἀλλὰ καὶ οἱ ἐκθλίβοντες χήραν, καὶ ὀρφανὸν καταδυναστεύοντες, καὶ τὰς φυλακὰς πληροῦντες ἀναιτίων, ἢ καὶ τοῖς ἑαυτῶν οἰκέταις πονη-

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and oppress the fatherless by their power, and fill the prisons with innocent persons, and evil intreat their servants with stripes, famine, or hard bondage; and lay waste whole cities; all lawyers, that plead for injustice or unrighteous causes; all unrighteous judges; all wicked publicans, and usurers, and soldiers, that are false accusers, and not content with their wages, but oppress the poor.'

Of the exactions and bribery of judges.

10. And that this was agreeable to the common discipline of the Church, will appear by examining the particulars.

I begin with that which was the most flagitious and intolerable, viz. the oppression committed by judges in their office, partly by cruel exactions, partly by feigned accusations, and partly by perversion of justice for the sake of bribery and filthy lucre: which sorts of oppression the law commonly terms *crimen repetundarum*, and *peculatus*. For though *peculatus* often signifies *robbing the public by private stealth*, yet it sometimes also denotes *the oppressions and injuries done by magistrates to the subject*. In which case the censures of the Church were often inflicted upon oppressing governors. As we have a famous instance of Synesius[33] excommunicating Andronicus, the governor of Ptolemais, for his violent oppression of the people. The imperial laws were also very numerous, and very severe in this case, to secure the rights and properties of the people from such violent invasion. They did not indeed allow the subject for some time to accuse the magistrate during the year of his administration: but Theodosius took off even that restraint[34], and not only gave men liberty, but invited and encouraged men of all orders to bring informations against cor-

ρῶς χρώμενοι, πληγαῖς φημι καὶ λιμῷ καὶ κακοδουλίᾳ, ἢ καὶ πόλεις ὅλας λυμαινόμενοι, φευκταῖοι ἔστωσάν σοι, ὦ ἐπίσκοπε· καὶ αἱ τούτων προσφοραὶ μυσαραί· παραιτήσῃ δὲ καὶ...ῥήτορας ἀδικίᾳ συναγωνιζομένους, ... καὶ τελώνας ἀδίκους, καὶ ζυγοκρούστας, καὶ δολομέτρας, καὶ στρατιώτην συκοφάντην, μὴ ἀρκούμενον τοῖς ὀψωνίοις, ἀλλὰ τοὺς πένητας διασείοντα.

[33] Ep. 57. p. 172. (p. 201.) *Ἀνδρόνικον τὸν Βερονικέα, κ. τ. λ.* See also before, ch. 2. s. 6. p. 84. n. 62.

[34] Cod. Theod. l. 9. tit. 27. ad Legem Juliam Repetundarum, leg. 6. (t. 3. p. 216.) Jubemus, hortamur, ut si quis .... a judice fuerit aliqua ratione concussus; si quis scit venalem de jure fuisse sententiam: si quis pœnam vel pretio remissam, vel vitio cupiditatis ingestam; si quis postremo quacunque de causa improbum judicem potuerit approbare; is vel administrante eo, vel post administrationem depositam, in publicum prodeat, crimen deferat, delatum approbet: cum probaverit, et victoriam reportaturus et gloriam.

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rupt judges, if they had either suffered any violence from them themselves, or knew them to be guilty of bribery, or setting justice to sale, or any the like improbity: and that as well in the time of their administration as afterward; promising a reward to any that should make good such charges against them. The like encouragement was given by Constantine and Valentinian Junior, as appears by their laws[35] now exstant in the Theodosian Code. And whereas the punishment of such corruption in the magistrate was only a pecuniary mulct before, Theodosius by a new law[36] made it death, as thinking no punishment too great for such an offence. At Carthage they had a peculiar good custom, which tended much to discourage all such rapacious practices in their magistrates. For Prosper[37] tells us, that every year the new proconsul was used upon a certain day, which they called *albi citatio*, to read over a list of the governors that had been before him: and then they that had been just in their administration, and gone through their office without covetousness, or rapaciousness, or any such fla-

[35] L. 9. tit. 1. de Accusationibus, leg. 4. (ibid. p. 6.) Si quis est cujuscunque loci, ordinis, dignitatis, qui se in quemcunque judicum, comitum, amicorum, vel palatinorum meorum, aliquid veraciter et manifesto probare posse confidit, quod non integre atque juste gessisse videatur, intrepidus et securus accedat; interpellet me. Ipse audiam omnia, ipse cognoscam: et si fuerit comprobatum, ipse me vindicabo. Dicat securus, et bene sibi conscius dicat: si probaverit, ut dixi, ipse me vindicabo de eo, qui me usque ad hoc tempus simulata integritate deceperit. Illum autem, qui hoc prodiderit et comprobaverit, et dignitatibus et rebus augebo, &c. —Ibid. tit. 27. ad Legem Juliam Repetundarum, leg. 7. (p. 217.) Unusquisque procurator, præpositus gynæcio, tabularius, susceptor, colonus, vel quicunque se a comite domorum meminerit esse concussum, cum ipse, cui pecuniam numeravit, administratione decesserit, intra anni spatia ad judicium Spectabilitatis tuæ, quidquid dederit repetiturus, accurrat: ut prosit pensionibus, quidquid ille reddiderit. Sin vero ex tempore depositæ administrationis præstituti temporis curricula transfluxerint, nulla vox advocationis emergat, sed ipsos procuratores, præpositos, colonos, tabularios, susceptores obnoxios ad solutionem jubemus citari.

[36] L. 9. tit. 28. de Crimine Peculatus, leg. 1. (ibid. p. 219.) Pridem fuerat constitutum, *ut hi judices, qui peculatu provincias quassavissent, mulctæ dispendio subjacerent;* sed quoniam nec condigna crimini ultio est, nec par pœna peccato, placuit.... capitale hoc esse, atque animadversione severissima coerceri.

[37] De Promiss. Dei, sive Glor. Sanctor. in Perorat. (append. p. 206 c. 3.) In calculis eburneis nomina proconsulum conscripta Carthagine in foro coram populo a præsenti judice sub certis vocabulis citabantur, et erat solemnis dies Albi Citatio. Hi, qui avaritiam superantes, rempublicam fideliter egerant absque flagitiis facinoribusque, etiam absentes honorabantur: eos vero, quos rapacitas vicerat, populus conviciis sibilisque notabat.

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grant crimes, were honoured in their absence by the applauses of the people: but, on the other hand, they, whom covetousness had driven into scandalous measures of robbery and violence, were noted with marks of infamy by general hissings and reproaches

Of the exactions of publicans, and collectors of the public revenues, and other officers of the Roman empire.

11. The laws were equally severe against all super-exactors, as they are called, of the public revenues. The common burden of tribute and taxes was generally hard enough, even as settled by law[38], in the Roman government: but the illegal exactions of the publicans and collectors made it a much more intolerable burden. Therefore the laws were forced to restrain and chastise their oppressions with great severity. Constantine made several laws to this purpose[39], condemning this crime as a capital offence, according to Gothofred's interpretation[40] of *severe punishment.* Valentinian and Valens obliged the exactor to make restitution fourfold to the injured party[41], and condemned the judge in the same quadruple sum, if he refused upon complaint to do him justice. But Arcadius, finding that

[38] Vid. Lipsium, De Magnitudine Romana, l. 2. cc. 1, seqq. (Oper. t. 3. pp. 692, seqq.) *De priscis Populi Romani vectigalibus, &c.*

[39] Cod. Theod. l. 8. tit. 10. de Concussionibus Advocatorum, leg. 1. (t. 2. p. 599.) Si quis se a ducenariis, vel centenariis, ac præcipue fisci advocatis, læsum esse cognoscit, adire judicia ac probare injuriam non moretur, ut in eum, qui convictus fuerit, competenti severitate vindicetur.

[40] In loc. (s. 2.) Constantinus hac lege læsis animum dedit concussores accusandi: judices vero severiter in eos vindicare jubet tum hac lege, tum d. l. 1. *De Exactionibus;* quibus verbis capitalem pœnam indicari puto.—Conf. l. 11. tit. 1. de Annona et Tributis, leg. 3. (t. 4. p. 9.) Manu propria judices universi, periculo suo, annonarias species, et cætera, quæ indictione penduntur, definitis quantitatibus et comprehensis modis, facta ascriptione, designent: cujus observantiæ illa erit commoditas, ut post successionem quoque eorum, facile requiratur, an exactores, ultra quam oportuit, de fortunis provinciarum aliquid exsculpere voluerunt. —It. l. 11. tit. 7. de Exaction. leg. 1. (ibid. 66.) Ducenarii, et centenarii, sive sexagenarii, non prius debent aliquem ex debitoribus convenire, quam a tabulario civitatis nominatim breves accipiant debitorum: quam quidem exactionem sine omni fieri concussione oportet; ita ut, si quis in judicio quæstus, quod indebite exactus est, vel aliquam inquietudinem sustinuit, hoc ipsum probare potuerit, severa in exactores sententia proferatur.—Conf. etiam l. 4. tit. 12. de Vectigalibus, leg. 1. (t. 1. p. 379.) Penes illum vectigalia manere oportet, qui superior in licitatione exstiterit; ita, ut non minus quam triennii fine locatio concludatur, nec ullo modo interrumpatur tempus exigendis vectigalibus præstitutum: quo peracto tempore, licitationum jura conductionemque recreari oportet, quem plus aliquid, quam statutum est, a provincialibus exegisse constiterit.

[41] Ibid. l. 11. tit. 16. de Extraord. leg. 11. (t. 4. p. 123.).... Obnoxius quadrupli repetitione teneatur.

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this law of Valentinian did not effectually put a stop to these exorbitant demands, made it death[42] for any exactor to go beyond his bounds. And Honorius, some years after, joined both punishments together, ordering the exactor to be put to death and quadruple restitution[43] to be made out of his estate to the injured person; laying a fine withal of thirty pounds of gold upon any judge that neglected to put the law in execution. Now what the civil law so severely condemned, there is no question but that the ecclesiastical law punished in the spiritual way, with equal severity, under the general name of oppression.

Of the exactions of advocates, and lawyers, and apparitors of judges.

12. There was another cruel way of oppression under colour of law, much practised by advocates and lawyers, commonly called *scholastici* and *defensores*, and the apparitors and officers of the civil courts, and attendants of judges. Their exactions and extortions upon men's necessities are frequently complained of, and provided against by several laws. The law allowed them certain stated wages, or canonical pensions, as the term is, for pleading and managing causes: but beyond these they often made no scruple to exact maintenance for themselves and their horses, wherever they came, in the city, or in mansions, without any pay; which super-exactions are particularly noted in advocates and officers by Constantius[44], as instances of insatiable covetousness: and therefore he gives orders to judges to defend the people from such extortions, and not suffer their injuries and encroachments to go unpunished. Constantine

[42] Ibid. l. 11. tit. 8. de Superexactionibus, leg. 1. (p. 83.) Si quis exactorum superexactionis crimen fuerit confutatus, eandem pœnam subeat, quæ Divi Valentiniani sanctione dudum fuerat definita. Capitis namque periculo posthac cupiditas amovenda est, quæ prohibita toties in hisdem sceleribus perseverat.

[43] Ibid. l. 11. tit. 7. de Exactionibus, leg. 20. (p. 81.).... Si in concussione possessorum exactores fuerint deprehensi, illico et capitali periculo subjaceant, et direptorum quadrupli pœna ex eorum patrimonio eruetur, &c.—Vid. ibid. tit. 8. de Superexactionibus, legg. 2 et 3 ejusdem Honorii. (p. 84.)—Ibid. tit. 26. de Discussoribus, leg. 1. &c. (p. 185.)—L. 13. tit. 11. de Censitoribus, legg. 7 et 10. (t. 5. pp. 131, 133.)—Valentiniani III. Novel. 7. de Indulgentiis reliquorum; ad cal. Cod. Theod. (t. 6. append. p. 23.) .... Sciamus licet, &c.

[44] Ibid. l. 8. tit. 10. de Concussionibus Advocatorum et Apparitorum, leg. 2. (t. 2. p. 599.) Præter solemnes et canonicas pensitationes multa a provincialibus Afris indignissime postulantur ab officialibus et scholasticis, non modo in civitatibus singulis, sed et mansionibus, dum ipsis et animalibus eorundem alimoniæ sine pretio ministrantur, &c... Provinciales itaque cuncti judices tueantur, nec injurias inultas transire permittant.

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reflects upon the like extortions of advocates in making wicked bargains with their clients[45], to make over to them the best of their lands, their cattle, and their slaves; which he calls 'spoiling and pillaging those that stood in need of their patronage;' and orders, 'that such rapacious vultures,' as Gothofred terms them, 'should be expelled the court and never after be allowed the liberty of pleading.'

Another way whereby wicked advocates were wont to oppress the poor, was, by encouraging their clients to draw their adversaries to a civil cause from the cognizance of the ordinary judges to a military tribunal, where they had more liberty by bribery, and other corrupt practices, to oppress them. Great complaints are made by Ammianus Marcellinus[46] of this sort of depredation made upon the poor in the time of Valens, who, he says, 'opened the doors to robbery, which gained strength every day by the pravity of the judges and advocates, who sold the causes of poor men to the rulers in the army, or such as bore sway in the palace, by which means they increased their wealth, or brought themselves to preferment.' To correct this abuse, Arcadius made a law[47], 'that whoever transferred a civil cause from the ordinary judges to a military court should be liable to banishment, besides other penalties inflicted by former laws; and the advocate concerned in such a cause

[45] Ibid. l. 2. tit. 10. de Postulando, leg. 1. (t. 1. p. 138.) Advocatos, qui consceleratis depectionibus suæ opis egentes spoliant atque denudant, non jure causæ, sed fundorum, pecorum et mancipiorum qualitate rationeque tractata, dum eorum præcipua poscant coacta sibi pactione transcribi, ab honestorum cœtu judiciorumque conspectu segregari præcipimus.—Conf. Cod. Justin. l. 2. tit. 6. de Postulando, leg. 5. (t. 4. p. 379.) Si qui advocatorum existimationi suæ immensa atque illicita compendia prætulisse sub nomine honorariorum ex ipsis negotiis, quæ tuenda susceperint, emolumenta sibi certæ partis cum gravi damno litigatoris et deprædatione poscentes fuerint inventi: placuit, ut omnes, qui in hujusmodi sævitate permanserint, ab hac professione penitus arceantur. [Read *scævitate* for *sævitate*, and see Gothofred on the preceding law. Cod. Theod. ibid. p. 139. See also Ed. Amstel. 1663. of the Corp. Jur. Civil. (t. 1. p. 86.) n. 30, in the margin. Ed.]

[46] L. 30. c. 4. p. 448. (p. 591.)... Laxavitque rapinarum fores, quæ roborantur indies judicum advocatorumque pravitate, sentientium paria, qui, tenuiorum negotia militaris rei rectoribus vel intra palatium validis venditantes, aut opes, aut honores quæsivere præclaros.

[47] Cod. Theod. l. 2. tit. 1. de Jurisdiction. leg. 9. (t. 1. p. 86.) Si quis, neglectis judicibus ordinariis, sine cœlesti oraculo causam civilem ad militare judicium credideret deferendam, præter pœnas ante promulgatas, intelligat se deportationis sortem excepturum. Nihilominus et advocatum ejus decem libris auri condemnatio feriendum.

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should forfeit ten pounds of gold, except they had a special license from the emperor for such a removal.' Valentinian III. added to this[48], 'that the advocate should lose his office, and the counsellor be banished also.' And there were many other laws made by Theodosius, Valentinian Junior, and Marcian, to the same purpose, which the curious reader may find in Gothofred upon the forementioned law of Arcadius.

It is true the ecclesiastical law does not particularly specify these things; but we may suppose, they, being great crimes, were included in the general notion of *illegal oppression*, which was thought to deserve ecclesiastical censure.

Of griping usury and extortion.

13. But there is one sort of oppression which the laws of the Church more particularly take notice of, and condemn both in the clergy and laity, that is, griping usury or extortion upon the poor. The nature of usury, and the several degrees of it, I have had occasion already to explain in a former Book[49]: all, therefore I shall here take notice of, is, the censures which the Church passed upon all that were guilty of what they reckoned cruel and criminal in it. The Council of Eliberis not only orders the clergy to be degraded, who were found guilty of taking usury, but threatens excommunication to every layman[50] that, after admonition, persisted in the practice of it. And the first Council of Carthage gives this reason why clergymen should not practise it[51], because it was a thing that was culpable in laymen. And the reason why it was so generally condemned by the Ancients even in laymen, was, because it was generally a great oppression of the poor, to whom the charity of lending without usury was due; and many times it was attended with extortion, as in the centesimal interest, which was twelve in the hundred; and what they called *hemiolia*, which was receiving *half as much more as the principal* by way of interest, both which were condemned by the laws of the State as illegal exactions, and downright extortion. Upon which bottom all the arguments and invectives of the

[48] Novel. de Episcopali Judicio, tit. 12. ad calc. Theod. (t. 6. append. p. 26.).... Causidicum officii amissio, jurisconsultum existimationis et interdictæ civitatis damna percellant.

[49] B. 6. ch. 2. s. 6. v. 2. p. 206.

[50] C. 20. (t. 1. p. 973 a.) Si quis etiam laicus accepisse probatur usuras,...si in ea iniquitate duraverit, ab ecclesia sciat se esse projiciendum.

[51] C. 13. (t. 2. p. 1826 e,) Quod in laicis reprehenditur, id multo magis in clericis oportet [al. debet] prædamnari.

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Ancients are founded. So that usury in this sense was reckoned a plain robbery of the poor, and a cruel oppression of those to whom mercy and charity ought to be shown upon all occasions. And to this we may join all extortion made by force or fear, which the Civil Law[52] condemns and annuls, though a covenant or promise had been obtained of the injured party.

Of forgery. 14. The last sort of robbery was that which was committed by fraud and deceit, which the law calls *dolus malus*, and *stellionatus*, from *stellio*, that little animal with shining spots like stars, the lizard or tarantula, of which naturalists[53] observe, that there is no animal which more fraudulently envies man than this: for changing his skin every year, which was reckoned a sovereign remedy against the falling-sickness, he devours it himself, lest men should have the benefit of it: whence the lawyers call all imposture and fraud, which has no special title in law, by the name of *stellionatus*, as Ulpian[54] explains it: thus if a man mortgage or pawn that which is already engaged, fraudulently dissembling the former obligation; or pass it away in exchange, or pretend to pay debts with it, when it is under a pre-engagement; all such frauds are called *stellionatus*. So if a man change the wares which he has sold, or corrupt them, or direct them to another use after he has pawned them; or if he used any collusion or imposture to compass the death of any man, this was reckoned a fraud of the same nature. If in giving a pawn he substituted brass in the room of gold; if he sold a freeman under the notion of a slave; if he received a sum of money as a debt that was really paid him before; he was liable to be punished upon an action of fraud upon the same title[55]; and for his crime,

[52] Cod. Theod. l. 2. tit. 9. de Pactis, leg. 4. (t. 1. p. 129.) Pacta quidem per vim et metum apud omnes satis constat cassata viribus respuenda.

[53] Plin. l. 30. c. 10. (p. 546. 21.) .... Nullum animal fraudulentius invidere homini tradunt: inde stellionum nomen aiunt in maledictum translatum, &c.

[54] Digest. l. 47. tit. 20. leg. 3. (t. 3. p. 1403.) Stellionatum autem objici posse his, qui dolo quid fecerunt, sciendum est: scilicet si aliud crimen non sit, quod objiciatur: quod enim in privatis judiciis est de dolo actio, hoc in criminibus stellionatus persecutio. Ubicunque igitur titulus criminis deficit, illic stellionatus objiciemus. Maxime autem in his locum habet, si quis forte rem alii obligatam dissimulata obligatione per calliditatem alii distraxerit, vel permutaverit, vel in solutum dederit: nam hæ omnes species stellionatum continent, &c.

[55] Vid. Calvin. Lexicon. Juridicum, voce *Stellionatus*. (p. 809. col.

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if he was a plebeian, he might be condemned to the mines; if a person of quality, he might be sent into banishment, or be degraded. The instances of such frauds and collusions are too many and intricate to be here particularly recounted, but the chief of them may be summed up under these five titles, forgery, calumny, flattery, deceitfulness in trust, and deceitfulness in traffic.

Forgery may be committed either in counterfeiting coin, to impose upon the unskilful and unwary; or else in counterfeiting deeds and instruments, to lay claim to other men's estates, as is done by those who make a title upon false wills or bonds, or conceal or corrupt the true ones. The counterfeiting of the coin was not only an injury to private men in commerce, but also an act of treason against the supreme powers: and therefore punished as a capital offence with confiscation, banishment, or death, and that sometimes of the cruellest sort, burning alive, as appears from several laws in the Theodosian Code[56]

sinistr.) Stellionatum jureconsulti appellant fraudem omnem atque imposturam, quæ propriam significationem non habet, et in proprium delicti nomen non cadit: (l. 7. § 1 ff. ad Turpill.) veluti si quis rem alienam sciens obliget, vel alii jam pignoratam alii denuo obliget, vel pignore dando pro auro æs subjecerit, stellionatus crimen committit: (l. 1 ff. de stellionatu, l. 16. § 1. l. 36 ff. de pign. act.) Similiter qui sciens statu liberum dissimulata ejus conditione vendit, vel creditor numeratam jam sibi pecuniam iterum accipiens, stellionatus crimine plectitur.

[56] L. 9. tit. 21. de Fals. Monet. leg. 1. (t. 3. p. 169.) Quicunque adulterina fecerit nomismata, pœnam pro discretione sexus et conditionis suæ diversitate sustineat: hoc est, ut si decurio, vel decurionis sit filius, exterminatus genitali solo, ad quamcunque in longinquo positam civitatem sub perpetui exsilii conditione mittatur, aut super facultatibus ejus ad nostram Scientiam referatur. Si plebeius, ut rebus amissis perpetuæ damnationi dedatur: si servilis conditionis, ultimo supplicio subjugetur.—Leg. 2. (p. 170.) Quoniam nonnulli monetarii adulterina moneta [leg. adulterinam monetam] clandestinis sceleribus exercent, cuncti cognoscant, necessitatem sibi incumbere hujusmodi homines inquirendi, ut investigati tradantur judiciis. . . . . Si miles aut promotus hujusmodi crimen incurrit, super ejus nomine et gradu ad nos referatur. Si dominum fundi vel domus conscium esse probabitur, deportari eum in insulam oportebit, cunctis ejus rebus protinus confiscandis: si vero eo ignaro crimen commissum est, possessionem aut domum debet amittere, in qua id scelus admissum est: actor fundi, vel servus, vel incola, vel colonus, qui hoc ministerium præbuit, cum eo qui fecit, supplicio capitali plectetur: nihilominus fundo, vel domo fisci viribus vindicanda. Quod si dominus ante ignorans, ut primum reperit, scelus prodidit perpetratum, minime possessio, vel domus ipsius proscriptionis injuriæ subjacebit: sed auctorem ac ministrum pœna capitalis excipiet. —Leg. 3. (p. 173.) Si quis nummum falsa fusione formaverit, universas ejus facultates fisco addici præcipimus, atque ipsum severitate legitima coërceri, ut in monetis tantum nostris cudendæ pecuniæ studium fre-

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made upon this occasion. Particularly Constantine, in one [57] of his laws, orders such 'to be put to the sword, or burnt alive, or to be punished with some such violent death, whether they were guilty of clipping the coin, and diminishing its quantity, or adulterating its quality, and vending it as good by manifest fraud and imposture.' And what the law punished thus severely in the State, there is no question but that it was with equal severity in the spiritual way censured, and condemned as a fraud and robbery by the Church.

The counterfeiting of false deeds, and especially false wills, was esteemed an heinous crime even by the old Roman laws, of which there is a whole title in the Pandects [58]; one of which, related by the famous lawyer Julius Paulus, says [59], 'Whoever conceals a will, or conveys it away, or destroys it, or puts another in its room, or cancels it; or whoever writes, or signs, or fraudulently produces a false will, is liable to be punished upon an action of forgery, by the Cornelian law.' And that punishment is either banishment, or confiscation [60], or death according to the quality of the offender. And by the laws of Constantine [61] the same punishments of banishment and death were

quentetur.—Leg. 5. (p. 175.) Præmio accusatoribus proposito, quicunque solidorum adulter potuerit reperiri, vel a quoquam fuerit publicatus, illico omni dilatione submota, flammarum exustionibus mancipetur.—Leg. 6. (p. 176.) Comperimus, nonnullos flaturarios Majorinam pecuniam non minus criminose, quam crebre, separato argento ab ære, purgare. Si quis igitur posthæc fuerit in hac machinatione deprehensus, capitaliter se fecisse cognoscat, &c.

[57] Ibid. tit. 22. Si quis solidi circulum inciderit, vel adulteratum in vendendo subjecerit, leg. 1. (p. 181.) .... Aut capite puniri debet, aut flammis tradi, vel alia pœna mortifera. Quod ille etiam patietur, qui mensuram circuli exterioris arraserit, ut ponderis minuat quantitatem; vel figuratum solidum adultera imitatione in vendendo subjecerit.—Vid. Digest. l. 13. tit. 7. de Pignorat. Action. leg. 1. See afterwards, s. 17. p. 479. n. 77.—Ibid. leg. 16. (t. 1. p. 1401.)

[58] Digest. l. 48. tit. 10. de Lege Cornelia de Falsis. (t. 3. p. 1474.)

[59] Ibid. leg. 2. (p. 1476.) Qui testamentum amoverit, celaverit, eripuerit, deleverit, interleverit, subjecerit, resignaverit; quive testamentum falsum scripserit, signaverit, recitaverit dolo malo, cujusve dolo id factum erit Legis Corneliæ pœna damnatur.

[60] Ibid. leg. 1. n. 13. (p. 1476.) Pœna falsi, vel quasi falsi, deportatio est, et omnium bonorum publicatio: et si servus eorum aliquid admiserit, ultimo supplicio affici jubetur.

[61] Cod. Theod. l. 9. tit. 19. ad Leg. Cornel. de Falso, leg. 2. s. 4. (t. 3. p. 159.) Capitali post probationem supplicio, si id exiget magnitudo commissi, vel deportatione ei, qui falsum commiserit, imminente, &c.—Vid. Cod. Justin. l. 10. tit. 13. De his, qui se deferunt, leg. 1. (t. 5. p. 24.) .... Et tunc occultator ille gestorum .... in insulam deportetur.

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awarded to this sort of forgery. And though the ecclesiastical laws do not particularly specify the punishment of this crime, yet they must be supposed to comprehend it under the general title of theft and robbery, which made men liable to ecclesiastical censure.

Of calumny with regard to men's estates and fortunes; and its reverse, the fraud of flattery.

15. Another sort of fraud that might be committed against men, in order to rob them of their estates and fortunes, was impeaching them of feigned crimes by false accusation and calumny. This sometimes affected men's lives, and then it was a species of murder, and punished under that denomination, as has been shown before, [in the ninth section of the tenth chapter preceding.] Sometimes it affected their fame and reputation, and as such it will be considered hereafter, [in the next chapter.] In this place we take it only as affecting men's estates and fortunes, and as an intention by fraud to rob them of their property and possessions. In which sense the law sometimes takes calumny and false accusation as a species of theft and robbery, and proscribes it under that title. As appears from that law of Valentinian and Gratian in the Theodosian Code [62], which joins these three sorts of calumny together, viz. 'against men's fame and reputation, against their fortunes, and against their lives:' ordering, 'that whoever impleaded another upon any of these three heads should undergo the same penalty as he intended to bring upon the party he impeached, if he proved to be a false accuser, and did not fairly make out his action.' Against such calumniators, fraudulent informers, and false accusers, whose chief aim was in a plausible way, and under pretence of legal process, to come at other men's estates, there are two or three whole titles more in the Theodosian Code [63], where such accusers and impeachers are called 'the bane of human life,' and 'the common pest of mankind:' and they are ordered to be prosecuted to the last degree with confiscation and death.

The ecclesiastical law also enjoins them a severe penance. By a canon of the Council of Eliberis [64], 'he that bears false

[62] L. 9. tit. 1. de Accusation. leg. 11. (t. 3. p. 15.).... Qui alterius famam, fortunas, caput denique et sanguinem in judicium devocaverit, sciat, sibi impendere congruam pœnam, si quod intenderit, non probaverit.

[63] Ibid. tit. 39. de Calumniator. (p. 284.)—L. 10. tit. 10. de Petition. et Delator. legg. 1, 2, 3, 10, 23, &c. (pp. 430, seqq.)—Et tit. 12. Si vagum petatur mancipium. (p. 462.)

[64] C. 73. (t. 1. p. 978 b.) Delator si quis exstiterit fidelis, et per dela-

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witness against another, to the loss of his life or liberty, is not to be received to communion even at his last hour:' and if it was in a lighter cause, as in a pecuniary matter or the like, he was 'to do penance for five years,' before he was reconciled and perfectly restored to the peace of the Church. St. Austin[65] also reckons this sort of calumny among the species of robbery and oppression. And the author of the Constitutions[66], giving directions to the bishop what sort of persons he should reject from the communion, among others mentions 'soldiers, who are false accusers, and not content with their wages, but oppress the poor.'

Adulation and flattery is the reverse of calumny, and yet by these means some made a shift by fraudulent arts to get themselves made heirs to dying persons, to the prejudice of those who had a more just and real title. To prevent which sort of fraud, Valentinian[67] made a law 'that no ecclesiastical person or ascetic (for the fraud was chiefly committed by them) should clancularly resort to the houses of dying widows or orphans to get their estates, or any legacies to be settled upon them: which if they did, they were liable to be prosecuted at law by the deceased parties' next relations: they were to enjoy nothing that they had so fraudulently obtained, under pretence of religion, from any such persons, either by way of donation and gift or last will and testament; but the legal heirs might make their claim, and set aside all such legacies; or otherwise they were to be confiscated to the public.' There are two laws of Theodosius[68] also much to the same purpose.

tionem ejus aliquis fuerit proscriptus vel interfectus, placuit eum nec in fine accipere communionem. Si levior causa fuerit, intra quinquennium accipere potuit [al. poterit] communionem.

[65] Ep. 54. [al. 153.] ad Macedon. (t. 2. p. 405 b.) Qui contra jus societatis humanæ furtis, rapinis, calumniis, oppressionibus, invasionibus abstulerit, reddenda potius quam donanda censemus, &c.

[66] L. 4. c. 6. See before, the last part of n. 32, preceding.

[67] Cod. Theod. lib. 16. tit. 2. de Episc. et Cler. leg. 20. (t. 6. p. 48.) Ecclesiastici, aut ex ecclesiasticis, vel qui continentium se volunt nomine, nuncupari, viduarum ac pupillarum domos non adeant: sed publicis exterminentur judiciis, si posthac eos affines earum vel propinqui putaverint deferendos. Censemus etiam, ut memorati nihil de ejus mulieris, qui si privatim sub prætextu religionis adjunxerint, liberalitate quacunque, vel extremo judicio possint adipisci, &c.—Vid. ibid. leg. 21. (p. 51.) Hi, qui ecclesiæ, &c.

[68] Ibid. leg. 27. (p. 60.) .... Si quando diem obierit, nullam ecclesiam, nullum clericum, nullum pauperem scribat hæredes: careat namque necesse est viribus, si quid contra vetitum circa personas specialiter

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The Fathers are so far from complaining of the seeming hardship of these laws, that they rather complain of the fraud and avarice and rapaciousness of those who gave occasion to these pious emperors to make such laws against them. St. Ambrose[69] says, 'such men were guilty of violence and invasion of the rights of others: they made a greater prey of widows by their blandishments and flatteries, than others did by torments: but it was all one before God, whether a man seized the substance of others by force or by circumvention, so long as he detained what of right belonged to other men.' In like manner St. Jerom[70]: 'I am ashamed to say that the idol-priests, and stage-players, and horse-racers, and harlots, may be left heirs, whilst clerks and monks only are prohibited by this law; and that not by persecuting tyrants, but Christian princes. Neither do I complain of the law, but it grieves me

comprehensas fuerit a moriente confectum. Immo si quid ab his morienti fuerit extortum, nec tacito fidei commisso aliquid clericis in fraudem venerabilis sanctionis callida arte, aut probrosa cujuspiam conhibentia deferatur: extorres sint ab omnibus, quibus inhiaverant bonis, etc.—Leg. 28. (p. 64.) Legem, quæ diaconissis vel viduis nuper est promulgata, *Ne quis videlicet clericus, neve sub ecclesiæ nomine mancipia, supellectilem, prædam, velut infirmi sexus spoliator, invaderet, et, remotis affinibus ac propinquis, ipse sub prætextu Catholicæ disciplinæ se ageret viventis hæredem*, eatenus animadvertat esse revocatam, ut de omnium chartis, si jam nota est, auferatur: neque quisquam, aut litigator ea sibi utendum, aut judex noverit exsequendum.

[69] Serm. 7. de Clericis, p. 132. [Serm. 66. Ed. Colon. 1616. ap. Ed. Bened. deest.]—Vid. int. Serm. Augustin. Append. Serm. 82. (t. 5. append. p. 150 e.) Nemo nos invasionis [ap. Augustin. leg. *invasores*] arguit, violentiæ nullus accusat. Quasi non interdum majorem prædam a viduis blandimenta eliciant, quam tormenta. Non [al. nec] interest apud Deum, utrum vi, an circumventione quis res alienas occupet, dummodo quoquo pacto tenet alienum.—Conf. Libr. cont. Symmach. [al. Ep. 18.] (t. 2. p. 837 a. n. 14.) [The citation is indistinct, but the author seems to allude to the passage commencing, *Et ubi in moribus culpa non deprehenditur, &c.* Ed.]

[70] Ep. 2. [al. 52.] ad Nepotian. (t. 1. p. 258 e.) Pudet dicere: sacerdotes idolorum, mimi, et aurigæ, et scorta hæreditates capiunt; solis clericis ac monachis hac lege prohibetur: et non prohibetur a persecutoribus, sed a principibus Christianis. Nec de lege conqueror, sed doleo cur meruerimus hanc legem. Provida severaque legis cautio: et tamen nec sic refrænatur avaritia. Per fidei commissa legibus illudimus: et quasi majora sint imperatorum scita quam Christi, leges timemus, et Evangelia contemnimus. —Vid. Ep. 3. [al. 60.] ad Eund. (ibid. p. 337 d.) Alii nummum addant nummo, et in marsupium suffocantes matronarum opes venantur obsequiis, etc.—Ep. 22. ad Eustoch. (ibid. p. 98 c.) Clerici ipsi .... osculantur capita matronarum, et, extenta manu, ut benedicere eos putes velle, si nescias, pretia accipiant salutandi. —Cf. Leon. et Majorian. Novel. 8. ad calc. Cod. Theod. (t. 6. append. p. 37. col. sinistr.) .... *Cum insidiosa munuscula diriguntur, subornantur medici, qui prava persuadeant, et neglecti medendi studio fiant alienarum cupiditatum ministri.*

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to think we should deserve such a law. The caution of the law is provident and severe, and yet our covetousness is not restrained thereby. We evade the laws by feoffments in trust: and, as if the edicts of emperors were greater than those of Christ, we are afraid of their laws, whilst we contemn the Gospels.'

It is evident by these complaints made by these holy Fathers, that this fraudulent way of catching at the estates of widows, by fawning arts and assentation, (whence these flattering hypocrites were commonly called *hæredipetæ* and *captatores*,) was esteemed no less a theft than that which was committed by open violence and oppression. This was a scandalous sort of theft even among the Heathens: Juvenal[71] often spends his satirical wit upon it: and so does Martial, and Seneca, and Pliny, and Lucian[72], and many others. Which makes it less wonder that the Christian laws should proscribe it, and the Fathers so sharply inveigh against it, even when it looked like a means of augmenting the revenues of the Church. But that shows the purity of the ancient discipline, that they would not spare a crime that could appear with so fine an aspect; being utter enemies to all scandalous and disreputable ways of increasing the clerical maintenance, as I have had occasion to show in several instances[73], in speaking more particularly of the revenues of the Church.

Of deceitfulness in trust.

16. Another sort of fraud is committed in matters of trust, as when a steward or servant embezzles his master's goods, or makes fraudulent and injurious bargains for him; or when a guardian or tutor, who is entrusted with the execution of a

[71] Sat. 5, 97. (ap. Corp. Poet. Lat. t. 2. p. 1148.)

. . . . . Sumitur illinc
Quod captator emat Lenas, Aurelia vendat.

Sat. 6, 38. (ibid. p. 1149.)

. . . . . Tollere dulcem
Cogitat hæredem cariturus turture magno,
Mullorumque jubis, et captatore macello.

Sat. 10, 201. (ibid. p. 1158.)

Usque adeo gravis uxori, natisque, sibique,
Ut captatori moveat fastidia Cosso.

[72] Vid. Calvin. Lexicum Juridicum, voce *Captare*. (p. 146. col. dextr.) Erant vero Romæ, qui senes orbos ac locupletes obsequio demereri studebant, ut ex eorum testamentis aliquid ferrent, quique etiam palam consignatis tabulis eos hæredes faciebant, quod ad eandem liberalitatem jamjam morituros provocarent. Cujusmodi captatoria officia ridet Lucianus in Dialogis Mortuorum, his verbis: "Εδοξε δέ μοι, ait, καὶ σοφὸν τοῦτ' εἶναι, θέσθαι διαθήκας ἐς τὸ φανερὸν, ἐν αἷς ἐκείνῳ καταλέλοιπα τἀμὰ πάντα, ὡς κἀκεῖνος ζηλώσας καὶ τὰ αὐτὰ πράξειε.

[73] See b. 5. ch. 4. ss. 13, 14. v. 2. pp. 170—174.

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dead man's will, acts an unfaithful part, and enriches himself out of what was designed for the maintenance of others; or when a man denies, or conceals, or refuses to restore any thing that was deposited with him and committed to his trust. The Ancients were extremely conscientious in this last instance of things committed to their trust, insomuch as that Pliny[73] himself can inform us, 'that it was one part of their solemn business every Lord's-day to bind themselves with a sacrament, or an oath, not to commit any wickedness, theft, robbery, adultery; not to falsify their word; not to deny any thing wherewith they were intrusted, when they were required to deliver it up again.' And therefore we may reasonably conclude, that no one was thought qualified for communion in such a society who was guilty of breach of faith in any such trust, which was both against the laws of common justice and his own solemn engagement.

Some trusts were of a more sacred nature, being designed for the service of God and the poor, an unfaithfulness in such trusts was therefore reckoned a double and a triple crime, because it added, as it were, murder and sacrilege to the injustice. Upon this account the fourth Council of Carthage[74] calls those, who endeavour to defraud the Church of such legacies or oblations as were left her by the dead, *murderers of the poor;* because their robbing the Church of that which was given for the maintenance of the poor was in effect to starve and famish the poor: and for such fraud and cruelty they are subjected to the censure of excommunication. Among the Epistles of Cyprian there is a letter of Cornelius[75], bishop of Rome, to Cyprian, giving him an account of one Nicostratus, a deacon, whom he charges with this sort of fraud: for he had not only cheated his temporal patroness, whose affairs he managed, but had carried away a great part of the revenues of the Church, which was entrusted with him as archdeacon for the

[73] Lib. 10. Ep. 97. (p. 278.) .... Seque sacramento non in scelus aliquid obstringere, sed ne furta, ne latrocinia, ne adulteria committerent, ne fidem fallerent, ne depositum appellati abnegarent.

[74] C. 95. See before, s. 9. n. 26, preceding.

[75] Ep. 48. [al. 50.] (p. 236.) Invigiletur, ergo ut omnibus coepiscopis nostris et fratribus innotescat, Nicostratum multorum criminum reum, et non solum patronæ suæ carnali, cujus rationes gessit, fraudes et rapinas fecisse; verum etiam, quod est illi ad perpetuam pœnam reservatum, ecclesiæ deposita non modica abstulisse.

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maintenance of poor widows and orphans; for which crime he was forced to fly from Rome, for fear of being called to give an account of his rapine and sacrilege. And Cyprian himself in another Epistle[76], giving an account to Cornelius of the wickedness of Novatus, says, 'he had defrauded the widows and orphans, and denied the Church's revenues which were entrusted with him: for which, and many other crimes, as starving his own father, and causing his wife by a sudden blow to miscarry, he had certainly been removed not only from his seat in the presbytery, but from all communion with the Church, had not the approach of a fierce persecution put a stop to his trial and condemnation.' By which it appears that there was no crime more heinously resented than this of unfaithfulness in trust, nor any more severely pursued and punished by the censures of the Church.

Of deceitfulness in traffic.

17. The last sort of fraud is that which is committed in traffic and commerce, between buyer and seller. The buyer may be guilty either in taking advantage of the ignorance of the seller, when he knows not the true value of his own goods; or in taking advantage of his necessity, when his poverty compels him to sell at an under-rate; or in paying him in false and corrupt coin, which is the same thing as defrauding him in the original contract. This last sort of fraud was severely punished by the Roman laws, both Heathen and Christian: for the vender, as well as the forger of false coin, is condemned in all the penalties of fraud, recounted in the Pandects[77]. And Con-

[76] Ep. 49. [al. 52.] ad Cornel. p. 97. (p. 238.) Spoliati ab illo pupilli, fraudatæ viduæ, pecuniæ quoque ecclesiæ denegatæ, has de illo exigunt pœnas, quas in ejus furore conspicimus. Pater etiam ejus in vico fame mortuus, et ab eo in morte postmodum nec sepultus. Uterus uxoris calce percussus, et abortione properante in parricidium partus expressus.... Hanc conscientiam criminum jam pridem timebat; propter hoc se non de presbyterio excitari tantum, sed et communicatione prohiberi pro certo tenebat; et urgentibus fratribus imminebat cognitionis dies, quo apud nos causa ejus ageretur, nisi persecutio ante venisset.

[77] Digest. l. 13. tit. 7. de Pignoratitia Actione, leg. 1. (t. 1. p. 1392.) Pignus contrahitur non sola traditione, sed etiam nuda conventione, etsi non traditum est. 1. Si igitur contractum sit pignus nuda conventione, videamus, an, si quis aurum ostenderit, quasi pignori daturus, et æs dederit, obligaverit aurum pignori? Et consequens est, ut aurum obligetur, non autem æs: quia in hoc non consenserint. 2. Si quis tamen, cum æs pignori daret, affirmavit hoc aurum esse, et ita pignori dederit, videndum erit, an æs pignori obligaverit: et numquid, quia in corpus consensum est, pignori esse videatur? quod magis est: tenebitur tamen pignoratitia contraria actione, qui dedit, præter stelliona-

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stantine made it a capital crime[78], not only for any one to adulterate, or clip, or diminish the coin, but also to pass any such away knowingly in payment to others, to put a wilful cheat upon them. And though this be not expressly and particularly specified in the ecclesiastical law, yet being a principal fraud, it must be comprehended under the general titles of frauds, which came under the cognizance of the spiritual jurisdiction. For fraud was always reckoned a crime of the first magnitude; St. Austin[79] puts it in the same class with murder, adultery, fornication, theft, and sacrilege: and Tertullian[80] joins it with the great sins of blasphemy, idolatry, apostasy, murder, and adultery, which defile the temple of God, and unqualify men for Christian communion.

As to the buyer's overreaching the seller, by taking advantage of his ignorance or unskilfulness in the just value of his commodity, this being a thing not easy to be discovered or proved, it may be supposed to be a fraud rather left to his own conscience, than ordinarily brought under public discipline. Yet certain it is, a conscientious man will not load his soul even with this guilt. St. Austin[81] gives a rare instance of singular

tum, quem fecit.—L. 48. tit. 10. ad Legem Corneliam de Falso, leg. 9. (t. 3. p. 1479.) Lege Cornelia cavetur, ut qui in aurum vitii quid addiderit, qui argenteos nummos adulterinos flaverit, falsi crimine teneri, &c.—Ibid. n. 2. (p. 1480.) Eadem lege exprimitur, ne quis nummos stagneos, plumbeos, emere, vendere, dolo malo vellet.

78 Cod. Theod. lib. 9. tit. 22. Si quis solidi circulum inciderit, vel adulteratum in vendendo subjecerit, leg. 1. (t. 3. p. 181.) .... Capite puniri debet, aut flammis tradi, vel alia pœna mortifera, si quis mensuram circuli exterioris arraserit, vel figuratum solidum adultera imitatione in vendendo subjecerit.

79 Tractat. 41. in Ioan. t. 9. p. 126. See before, s. 4, the second part of n. 8, preceding.

80 De Pudicit. c. 19. (p. 582 b.) Sunt autem et contraria istis [delictis quotidianæ incursionis] ut graviora et exitiosa, quæ veniam non capiant, homicidium, idololatria, fraus, negatio, blasphemia, utique et mœchia et fornicatio, et si qua alia violatio templi Dei.—Advers. Marcion. l. 4. c. 9. (p. 419 d.) Si autem Helisæus, prophetes Creatoris, unicum leprosum Naaman Syrum ex tot leprosis Israelitis emundavit, nec hoc ad diversitatem facit Christi; quasi hoc modo melioris, dum Israelitem leprosum emundavit extraneus, quem suus dominus emundare non voluerat [al. valuerat]; Syro facilius emundato, significato per nationes emundationis in Christo lumine earum, quæ septem maculis capitalium delictorum inhorrerent, idololatria, blasphemia, homicidio, adulterio, stupro, falso testimonio, fraude.

81 De Trinit. l. 13. c. 3. (t. 8. p. 930 f.) Et minus quidem ille vel se ipsum intuendo, vel alios quoque experiendo, vili velle emere et caro vendere, omnibus id credidit esse commune .... Scio ipse hominem, cum venalis codex ei fuisset oblatus, pretiique ejus ignarum et ideo quiddam exiguum poscentem cerneret venditorem, justum pretium

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justice in this case. He says, he knew a man, who, having a book offered him to be sold at an under-rate by one who understood not the true value of it, gave him the just price of it; surprising him by an uncommon generosity and equity, which allows no man to take advantage of another's ignorance; though it be against the general maxim of the world, which loves to buy cheap and sell dear, (as the mimic said, when he undertook to divine and tell all men their wishes,) whatever evil consequences may attend it.

On the other hand, fraud may be committed also by the seller, and that several ways; either by over-rating the commodity to the ignorant and necessitous buyer, which is also extortion and oppression; or by vending corrupt wares, which are not really and truly what they are said or appear to be, which is a fraud in the quality; or by using false weights and measures, which is a fraud in the quantity of the thing contracted for, and which is commonly branded with this note in Scripture, that "it is an abomination to the Lord."

The old Roman laws[82] were exceeding careful about this matter of just weights and measures; the ediles were obliged to examine them; the standards of both were religiously kept in the Capitol; and thence, afterward, in Christian times, they were removed and placed under the custody of bishops in the churches, as appears from Justinian's Pragmatic Sanction[83], and one of his Novels[84], to this purpose. Every city and mansion, or place of custom, had likewise their public standards, as well to prevent the frauds of the exactors of tribute, as those of others in private contracts one with another. To which pur-

quod multo amplius erat, nec opinanti dedisse.

[82] Vid. Digest. l. 48. tit. 10. ad Legem Corneliam de Falso, leg. 32. (t. 3. p. 1492.).... Si venditor mensuras publice probatas vini, frumenti, vel cujuslibet rei, aut emptor corruperit, dolove malo fraudem fecerit; quanti ea res est, ejus dupli condemnatur: decretoque divi Hadriani præceptum est, in insulam eos relegari, qui pondera aut mensuras falsassent.

[83] C. 19. (ad calc. Novell. ap. Corp. Jur. Civ. Amstel. 1663. t. 2. p. 236.) Ut autem nulla fraudis vel læsionis provinciarum nascatur occasio, jubemus in illis mensuris vel ponderibus species vel pecunias dari vel suscipi, quæ beatissimo papæ vel amplissimo senatui nostra Pietas in præsenti contradidit.

[84] Novel. 128. c. 15. (t. 5. p. 575.) Eos autem, qui publica tributa exigunt, istis ponderibus, et mensuris uti præcipimus: ut neque in hoc nostros tributarios lædant. Si autem collatores putant gravari se sive in mensuris, sive in ponderibus, habeant licentiam specierum quidem mensuras et pondera a gloriosissimis præfectis, &c.

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pose there are several laws of Theodosius[85], and Honorius[86], and Valentinian III[87], and Majorian[88], in the Theodosian Code: and very severe and capital punishments are there appointed for all such as were found guilty of fraud in altering or corrupting the public standard.

The Church has not many particular laws about this in her discipline: but it being a flagrant crime in the eye of the State, we may presume she punished offenders in this kind, by the general laws against fraud, without specifying all particular

[85] Cod. Theod. l. 12. tit. 6. de Susceptoribus, leg. 19. (t. 4. p. 551.) In singulis stationibus et mensuræ et pondera publice collocentur, ut fraudare cupientibus fraudandi adimant potestatem. — Leg. 21. (ibid. p. 552.) Modios æneos seu lapideos, cum sextariis atque ponderibus per mansiones singulas, quasque civitates, jussimus collocari, ut unusquisque tributarius, sub oculis constitutis rerum omnium modis, sciat quid debeat susceptoribus dare, &c.

[86] L. 11. tit. 7. de Superexactionibus, leg. 3. (p. 84.) Velut licito committi, frequenti læsorum deploratione didicimus, ut majoribus subjectis mensuris atque ponderibus gravi possessor damno quatiatur: jubemus, ut cura et solertia defensorum hoc fieri a susceptoribus non sinant, deprehensosque ad judicium dirigant, cum ipso fraudis commissæ indicio idem fieri notum est, &c.

[87] L. 12. tit. 6. de Susceptoribus, leg. 32. (p. 561.) Aurum sive argentum quumque [i. e. quandocunque] a possessore confertur, arcarius vel susceptor accipiat: ita ut provinciæ moderator ejusque officium ad crimen suum noverit pertinere, si possessoribus ullum fuerit ex aliqua ponderum iniquitate illatum dispendium, &c.—Novel. Valentin. et Theod. 25. de Pretio Solidi, ad calc. Cod. Theod. (t. 6. append. p. 13. ad summ.) De ponderibus quoque, ut fraus penitus amputetur a nobis *aguntur exagia*, quæ sub interminatione superius comprehensa sine fraude debeant custodiri.

[88] Novel. 1. ad calc. Cod. Theod. (t. 6. append. p. 33. col. sinistr.) Illis quoque fraudibus obviandum est, quas in varietate ponderum exactorum calliditas facere consuevit, qui, vetustis caliginibus abutentes, Faustinæ aliorumque nominum nescientibus faciant mentionem. Quibus penitus amotis, atque in perpetuum hac lege damnatis, a prætoriana sede ad singulas non solum provincias, sed etiam civitates pondera examinata mittantur: quibus tam omnis exactor quam negotiator utatur, capitale sibi sciens unusquisque supplicium, si constituta transcenderit.—Conf. Sidon. Apollinar. l. 5. Ep. 7. (p. 327.) Hi sunt qui invident..... arcariis pondera, mensuras allectis.—Cassiodor. l. 5. Ep. 39. (t. 1. p. 86. col. sinistr.) Exigentes assem publicum per gravamina ponderum, premere dicuntur patrimonia possessorum: ut non tam exactio, quam præda esse videatur. Sed, ut totius fraudis abrogetur occasio, ad libram cubiculi nostri, quæ vobis in præsenti data est, universas functiones publicas jubemus inferri. Quid enim tam nefarium, quam præsumptoribus liceat in ipsa etiam trutinæ qualitate peccare?—L. 11. Ep. 16. (t. 1. p. 169. col. sinistr.) Initium a libra faciemus, quia ubi conscientiam fas est intendere, inde debet sermo judicis inchoare. Hinc est, quod in ponderibus atque mensuris vos suggeritis ingravatos: et ideo nostra cura providebit, ut nullius vos ulterius ex ea parte vexare possit iniquitas. Quia grave scelus esse judicamus, aut mensuras modum excedere, aut libram æquissimi ponderis justitiam non habere.

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cases. The author of the Constitutions[89] gives a general rule about this matter, when he orders the bishop to reject the oblations of all such as were noted by the common name of ῥᾳδιουργοὶ, *fraudulent dealers:* and he more particularly marks the δολομέτραι, *those that used fraud in measures,* and the ζυγοκροῦσται, that is, such as though they did not use false weights, and balances of deceit, yet used a more sly art and fraud *in giving a turn to the scale with their fingers,* to gain that by artifice and sleight of hand in weighing, which they durst not venture to do by false weights. Constantine also takes notice of this fraud in one of his laws[90], where he forbids the receivers of tribute to use any art with their fingers 'to press down the scale, but to be exact in poising and libration, that no one might complain of any injustice done him.' And it is observable, that Julian[91], to prevent such frauds in weighing, appointed a standing officer in every city, whom he calls by a Greek name *zygostates,* that is, *the public weigher,* or *supervisor of the scale,* who was to determine all controversies arising about weight between buyer and seller, and put an end to them by examining what was suspected by the public standard. And the care of an Heathen emperor to correct frauds and abuses of this nature, made it more reasonable for the Church to look into them, and bring delinquents of this kind under penance by the power of ecclesiastical censure.

The author of the Constitutions likewise takes notice of the other sort of fraud, which may be committed in traffic by dissembling the ill qualities of things, and vending corrupt wares, under the notion and appearance of that which is perfect and good. As when a man puts off brass for gold, or a mixture of water or other liquor for pure wine. Therefore in his directions to the bishop[92], whose oblations he shall receive, and whose

[89] L. 4. c. 6. See before, s. 9. p. 463. n. 32.

[90] Cod. Theod. lib. 12. tit. 7. de Ponderatoribus, leg. 1. (t. 4. p. 562.) ...Aurum vero, quod infertur, æqua lance et libramentis paribus suscipiatur: scilicet, ut duobus digitis summitas lini retineatur, tres reliqui liberi ad susceptorem emineant, nec pondera deprimant, nullo examinis libramento servato, nec æquis ac paribus suspenso statere momentis.

[91] Ibid. leg. 2. (p. 566.) ... Ideoque placet, quem sermo Græcus appellat, per singulas civitates constitui zygostaten, ut ad ejus arbitrium et ad ejus fidem, si qua inter vendentem emptoremque in solidis exorta fuerit contentio, dirimatur.

[92] [Constit. Apost. l. 4. c. 6. See before, b. 15. ch. 2. s. 2. v. 5. p. 234. n. 39, and ibid. nn. 40, 41, 42. Ed.]

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refuse at the altar, he says, 'in the first place, he shall reject those whom the Greeks call κάπηλοι, and the Latins *caupones;* by which he does not mean *victuallers* strictly, or *merchants,* or *tradesmen in general;* though the words be sometimes so taken; but *fraudulent hucksters, who corrupt and adulterate their wares,* to make the greater gain and advantage of them. As appears from that passage, which, according to the Septuagint, he quotes out of Isaiah, (1, 22.) Οἱ κάπηλοί σου μίσγουσι τὸν οἶνον τῷ ὕδατι, *Thy hucksters mingle wine with water.* Lactantius[93] argues this point acutely against Carneades, the Heathen philosopher, who taught, 'that if a man has a fugitive slave, or an infected and pestilential house, which he sets to sale, he is bound in prudence not to discover their faults: because if he does, he shall either sell them for little or not at all.' This he calls poisonous doctrine, and shows it at large to be both against the rules of Christian justice and prudence also: for nothing can be more valuable to a man than keeping innocence and good conscience. Upon this account St. Hilary[94] says, whoever either designs, or commits fornication, or murder, or theft, or fraud, or rapine, makes his body a den of thieves. Some of the Ancients[95], indeed, are a little more severe against negotiating in any trade, except a manual art, for gain, because of the danger of fraud, that sticks so close between buying and selling: but Pope Leo[96] more favourably distinguishes between honest and filthy gain, and says the quality of the gain either excuses or condemns the tradesman. So that it was not all trade and merchandize that they condemned as simply unlawful in itself, but only when it was ac-

[93] Institut. l. 5. cc. 17. et 18. tot. (t. 1. pp. 402, seqq.) Quod ad præsentem disputationem, &c.

[94] In Ps. 118. [al. 119.] v. 139. p. 278. (t. 1. p. 393 a. n. 3.) ..... Corpora, cum cogitamus aut agimus stupra, cædes, furta, falsitates, rapinas, speluncam latronum constituimus.

[95] Vid. Tertul. de Idolol. c. 11. (p. 91 c.) Negotiatio servo Dei apta est? Cæterum si cupiditas abscedat, quæ est causa acquirendi? cessante causa acquirendi, non erit necessitas negotiandi.—Epiphan. Expos. Fid. n. 24. (t. 1. p. 1107 b.) Πραγματευτὰς οὐκ ἀποδέχεται, ἀλλὰ ὑποδεεστέρους πάντων ἡγεῖται.—Auct. Op. Imperfect. in Matth. 21. 12. (int. Oper. Chrysost. t. 6. p. 159 e.) *Et ejiciebat vendentes et ementes de templo:* Significans, quia homo mercator vix aut nunquam potest Deo placere. Et ideo nullus Christianus debet esse mercator: aut si voluerit esse, projiciatur de ecclesia Dei, dicente Propheta, *Quia non cognovi negotiationes, introibo in potentia Domini.*

[96] Ep. 93. ad Rustic. c. 9. (CC. [Ep. 92. c. 11.] t. 3. p. 1407 d.) Qualitas lucri negotiantem aut excusat aut arguit: quia est honestus quæstus aut turpis.

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companied with such fraudulent practices, as made it an unconscionable gain, and no better than a plausible theft, and more artificial way of robbery.

The last sort of fraud in the seller is committed by overrating his commodity; which is done either by monopolizers, when a single man, or a body of men, get the sole power and propriety of any commodity into their own hands, and set what arbitrary price they please upon it; or when the seller takes the advantage of the ignorance or necessity of the buyer to enhance his price, and make a gain of his weakness, his poverty, or his indiscretion. Against the fraud of monopolizers there is a famous law of the Emperor Zeno in the Justinian Code[97], where he first forbids 'any single man to monopolize any wares under the penalty of confiscation of all his goods, and perpetual banishment of his person:' and then proceeds to inhibit 'any body of men to combine in any unlawful contract not to sell their goods but at a certain rate, under the penalty of forfeiting forty pounds of gold.' He likewise prohibits 'all artificers and workmen from combining among themselves, that if any one undertook a work for another man and left it unfinished, no one of the same occupation should meddle with it to finish it without the consent of the first undertaker;' which was an art of raising their labour to what arbitrary price they were pleased to set upon it. To obviate which fraud, and the difficulty which honest men

[97] L. 4. tit. 59. de Monopoliis, leg. 1. (t. 4. p. 1069.) Jubemus, ne quis cujuscunque vestis, vel piscis, vel pectinum forte, aut echini, vel cujuslibet alterius ad victum, vel ad quemcunque usum pertinentis speciei, vel cujuslibet materiæ, pro sua auctoritate, vel sacro jam elicito, aut in posterum eliciendo rescripto, aut pragmatica sanctione, vel sacra nostræ pietatis annotatione, monopolium audeat exercere: neve quis illicitis habitis conventionibus conjuret aut paciscatur, *Ne species diversorum corporum negotiationis non minoris quam inter se statuerint venundentur.* Ædificiorum quoque artifices, vel ergolabi, aliorumque diversorum operum professores, et balneatores, penitus arceantur pacta inter se componere, *Ut ne quis quod alteri commissum sit opus impleat, aut injunctam alteri solicitudinem alter intercipiat:* data licentia unicuique, ab altero inchoatum et derelictum opus per alterum sine aliquo timore dispendii implere, omniaque hujusmodi facinora denuntiandi sine ulla formidine et sine judiciariis sumptibus. Si quis autem monopolium ausus fuerit exercere, bonis propriis exspoliatus, perpetuitate damnetur exsilii. Cæterarum professionum primates, si in posterum aut super taxandis rerum pretiis, aut super quibuslibet illicitis placitis, ausi fuerint convenientes hujusmodi sese pactis constringere, quadraginta librarum auri solutione percelli decernimus.

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thereby lay under, he dissolved all such unlawful contracts and combinations, and left men at perfect liberty, when they were deserted by one workman, to employ another, without any fear or molestation arising from the pretence of any pre-engagement.

The other way of enhancing the price, by the seller's taking advantage of the buyer's ignorance or indiscretion, is what no laws could well provide against in all cases: and therefore it was rather left to the equity and conscience of men, to be examined and judged by the divine law, than brought under any certain rules of human judgment. However, being a species of fraud and extortion and oppression, it is probable the governors of the Church took occasion in many notorious cases to condemn it, under the general title of *ῥαδιουργία, that base craft and gain that is gotten by imposture* in any kind, for which the bishop in the Constitutions[98] is required to debar men from making their oblations at the altar.

And to this head may be reduced the selling of that to which the seller himself has no just title; as the selling of fugitive slaves belonging to another master, which the law forbids[99], both because it is a sort of plagiary in the seller, and an imposition upon the buyer, and an encouragement to the slaves to rob and pillage and desert their proper masters. Such is also the selling things of no real worth, but a mere fraud and imposture; as the taking money for calculating nativities, and telling of fortunes, and divining for things lost, and many the like vain practices which the canons condemn, not only as curious and superstitious arts, but as fraudulent[1] and cheating tricks, imposing upon men by cozenage and imposture. All which, and a thousand other ways of pillaging, oppressing, and defrauding, the Church in her discipline censured as direct methods of committing theft and robbery.

Of abetting and concealing robbers; and buying

18. But besides the direct ways of committing this sin, there were several other base and disallowable practices, which virtually and by just construction might be interpreted theft, as the harbouring, abetting, and concealing robbers; buying of

[98] L. 4. c. 6. See before, s. 9. n. 32. p. 463.—See also, b. 15. ch. 2. s. 2. v. 5. p. 234. n. 39.

[99] Cod. Justin. l. 9. tit. 20. ad Legem Fabiam de Plagiariis, leg. 6. (t. 4. p. 2380. ad calc.) In fuga servum constitutum neque vendere, neque donare licet: &c.

[1] Vid. C. Trull. c. 61. See before, ch. 5. s. 6. p. 258. nn. 1, 2.

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stolen goods, &c.

stolen goods; leading an idle life, without any lawful vocation; spending in prodigality or unlawful gaming that which was designed for the maintenance of others: all which either the laws of Church or State censured as so many indirect ways of encouraging or committing robbery.

The laws of the State laid a severe penalty upon all that sheltered any criminals in any kind whatsoever. Valentinian in one law [2] condemns them as associates with the criminals, and makes them liable to the same punishment. In another law [3] he particularly condemns such as harbour robbers, and screen them from public justice; making them liable either to corporal punishment or confiscation of all their goods, according to the quality of their persons. And if any agent or steward sheltered them without his lord's knowledge, he was to be burnt alive. There is another law of Marcian to the same effect in the Justinian Code [4], showing how men are to be treated who entertain robbers, and use force to protect and defend them.

They who bought stolen goods, knowing them to be such, were also deemed guilty of partaking in the theft, because this was an encouragement to robbers, and a sort of approbation of them. St. Austin [5] and St. Chrysostom [6] make this remark

[2] Cod. Theod. l. 9. tit. 29. leg. 1. (t. 3. p. 221.) Eos, qui secum alieni criminis reos occulendo sociarunt, par atque ipsos reos pœna exspectet.

[3] Ibid. leg. 2. (p. 222.) Latrones quisquis sciens susceperit, vel offerre judiciis supersederit, supplicio corporali, aut dispendio facultatum, pro qualitate personæ ex judicis æstimatione plectatur. Si vero actor, sive procurator domino ignorante occultaverit, et judici offerre neglexerit, flammis ultricibus concremetur.

[4] L. 9. tit. 39. De his, qui latrones occultaverint, leg 2. (t. 4. p. 2424.) Si qui latrones, seu aliis criminibus obnoxii, in possessione degunt seu latitant: dominus possessionis si præsto est, aut procuratores, si dominus abest, seu primates possessionis ultro eos offerant: aut si scientes hoc sponte non fecerint, conveniantur a civili officio, ut tradant provinciali judicio eos, qui requiruntur, sub examine judicis arguendos, et pœnas post documenta congruas subituros. Si vero exhibere eos domini, vel procuratores, aut primates possessionis distulerint; tunc ad detinendos eos, [adito] rectore provinciæ, omnia civilia dirigantur auxilia.

[5] In Ps. 49. t. 8. p. 194. In Verb. Si videbas furem, concurrebas ei, etc. (t. 4. p. 458 b.) Ne forte diceres, Non feci furtum, non feci adulterium. Quid si placuit tibi, qui fecit? Nonne ipso placito concurristi? Nonne portionem tuam cum illo, qui fecit, laudando posuisti? Hoc est enim, fratres, concurrere cum fure, et ponere cum adultero portionem tuam *: quia etsi non facis, et laudas quod fit, adstipulator es facti, quoniam laudatur peccator in desideriis animæ suæ, et, qui iniqua gerit, benedicitur. Non facis mala, laudas mala facientes.

[6] In loc. eund. t. 3. p. 301. (t. 5.

* [Εἰ ἐθεώρεις κλέπτην, συνέτρεχες αὐτῷ καὶ μετὰ μοιχῶν τὴν μερίδα σου ἐτίθεις. Vid. Septuagint. Ed.]

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upon those words of the Psalmist, [50, 18.] "When thou sawest a thief, thou consentedst unto him;" 'that to show a liking to the thief, is the same thing as committing the robbery.' And certainly none can show a greater liking to him than he, who for a little filthy lucre gives encouragement to him, by trafficking and negotiating with him, as some critics observe the Arabic translation literally renders the phrase of the Psalmist. There is but one case in which the casuists allow men to buy of a known thief, and that is when he can do it for a small matter with an intent to restore what is stolen to the true owner: for in that case he intends not the encouragement of the thief, but the interest and advantage of the just proprietor: and for this they allege[7] the known rules of the civil law. But in all other cases to negotiate with thieves is to partake of their sin, and to encourage and strengthen them in their subsequent villanies. Therefore this and all other ways of partaking and co-operating with thieves, of which there are various methods noted and summed up by the doctors[8] in the schools[9], were anciently computed in the general account of theft and fraud, and accordingly punished with ecclesiastical censure.

Idleness censured as the mother of robbery.

19. Neither was it only the associating and partaking with robbers which they thus condemned, but all such unlawful vocations, or rather want of vocation, as put men in a manner upon the necessity of stealing, and having recourse to fraud

p. 235 b.) Τοῦτο πάντων αἴτιον τῶν κακῶν· τοῦτο μάλιστά ἐστι τὸ ἀνατρέπον ἀρετὴν, τὸ ἐκλύον τὴν περὶ τὰ καλὰ τῶν πολλῶν σπουδὴν, ὅταν μὴ μόνον μὴ ἐπιτιμῶσί τινες, ἀλλὰ καὶ συνήδωνται τοῖς ἁμαρτάνουσι τοῦτο τοῦ ἁμαρτάνειν οὐκ ἔλαττον.

7 Vid. Lessium, De Jure et Justit. l. 2. c. 14. dubitat. 4. p. 171. (p. 156.) *Utrum si dubites, an res sit aliena, possis eam accipere, retinere, alienare?*.... Dico secundo, qui dubitat, utrum res sit aliena, potest nihilominus eam accipere titulo donationis, permutationis, emptionis, etc., modo eo animo accipiat, ut eam domino, si post diligentem inquisitionem invenerit, restituat. Ratio est, quia in hoc nullam facit domino injuriam, sed beneficium; nam alioquin fortassis nunquam fuisset restituenda.

8 Vid. Aquinat. quæst. 62. art. 7. (t. 22. pp. 270, seqq.) In multis casibus etiam is, qui per se non fecit rei ablationem, tenetur tamen ipsi damnificato ad rei ablatæ restitutionem, etc. [The whole Question is *De Restitutione:* but I cannot find the words, as cited, in the Venice Edition of 1748, which I have consulted. Ed.]

9 Aquinas, ibid. (t. 22. p. 270.)
Jussio, consilium, consensus, palpo, recursus,
Participans, mutus, non obstans, non manifestans.

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and violence as the only support of a dissolute life. Idleness they esteemed the mother and nurse of theft, and a life without employment as no better than that of a common robber: because men of that character were only *fruges consumere nati, born to devour that which of right belonged to others.* Therefore the laws both of Church and State are very severe against all such.

There is a law of Valentinian Junior, in the Theodosian Code [10], against young, stout, lusty beggars, who being slaves or freedmen able to work, yet fled from their masters to Rome, to skulk in corners, and live as drones upon false charity: whom he orders 'to be examined, and if they were found able to work they should either become the possession of the informer who discovered them, or be returned to their original masters, who had a good action in law against any who either harboured such fugitives, or by their counsels instigated them to desertion.' Justinian inserted this law into his Code [11] likewise, and set forth a new edict [12] of his own to the same purpose.

The Church also was very careful in this matter, not to suffer stout idle wandering beggars to devour the revenues of those that were really infirm and poor. Upon this account she forbad any of her clergy to rove about the world, or wander from one diocese to another without letters dimissory, as some did, under the scandalous name of βακάντιβοι, *men out of business,* as I have had occasion to show more fully in another place [13]. She obliged all her monks and men of the ascetic life to live upon their own labour. Insomuch that a monk, who did not work, was looked upon as a thief

[10] L. 14. tit. 18. de Mendicantibus non invalidis, leg. 1. (t. 5. p. 256.) Cunctis affatim .... inspectis, exploretur in singulis et integritas corporum et robur annorum: adque ea inertibus, et absque ulla debilitate miserandis, necessitas inferatur, ut eorum quidem, quos tenet conditio servilis, proditor studiosus et diligens dominium consequatur: eorum vero, quos natalium sola libertas prosequitur, colonatu perpetuo fulciatur, quisquis hujusmodi lenitudinem prodiderit ac probaverit: salva dominis actione in eos, qui vel latebram forte fugitivo, vel mendicitatis subeundæ consilium præstiterunt.

[11] L. 11. tit. 25. de Mendicantibus validis, leg. 1. (t. 5. p. 148.) Cunctis, quos in publicum quæstum incerta mendicitas vocaverit, &c. [Nearly in the same words as the preceding note. Ed.]

[12] [Novel. 80. c. 5. (t. 5. p. 369.) Si vero hujus terræ fuerint, et corporibus quidem validis utantur, &c. Ed.]

[13] B. 6. ch. 4. s. 5. v. 2. p. 270.

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and a defrauder, as Socrates[14] tells us the Egyptian fathers were used to express themselves concerning such as eat other men's bread for nought. St. Austin wrote a whole Book[15] to prove this to be the proper duty of a monk, *to live upon his own labour*, where he answers all objections that can be made to the contrary. And there are innumerable passages in other ancient writers upon the same topic, to which I have referred the reader in discoursing upon the rules of the monastic life[16] in a former Book.

Here I shall only add one noted passage of St. Ambrose, where he gives rules and directions for dispensing charity with prudence only to such as really want it. 'There ought to be,' says he[17], 'a due measure observed in liberality, that our charity be not useless: and this moderation is chiefly to be regarded by bishops and priests, that they do not dispense the Church's treasure to importunate beggars, but as the justice and necessity of the case requires: for none are commonly more greedy in their petitions than such as those. Many come a begging, who are lusty and strong; many come, who have no other reason but an idle vagrant humour; who would evacuate the subsidies of the poor, or empty their chests, and consume what is laid up for their maintenance: neither are they content with a little, but require great largesses; they appear as gentlemen in their dress, and make that a means to promote their petition; and, pretending to be men of good birth, they make use of that as an argument to gain a greater contribution. If any one is too easy in giving credit to such as

[14] L. 4. c. 23. (v. 2. p. 238. 40.) *Ἄλλος δέ τις ἔλεγεν, ὅτι ὁ μοναχὸς, εἰ μὴ ἐργάζοιτο, ἐπίσης τῷ πλεονέκτῃ κρίνεται.*

[15] De Opere Monachorum. Vid. cc. 17, seqq. (t. 6. p. 489 d. et seqq.) Quid enim agant, qui operari corporaliter nolunt, &c.

[16] B. 7. ch. 3. s. 10. v. 2. p. 367.

[17] De Officiis, l. 4. c. 16. (t. 2. p. 88. b. n. 76.) Liquet igitur debere esse liberalitatis modum, ne fiat inutilis largitas. Sobrietas tenenda est, maxime sacerdotibus, ut non pro jactantia, sed pro justitia dispensent. Nusquam enim major aviditas petitionis. Veniunt validi, veniunt nullam causam nisi vagandi habentes, et volunt subsidia evacuare pauperum, exinanire sumptum: nec exiguo contenti, majora quærunt, ambitu vestium captantes petitionis suffragium, et natalium simulatione licitantes incrementa quæstuum. His si quis facile deferat fidem, cito exhaurit pauperum alimoniis profutura compendia. Modus largiendi adsit, ut nec illi inanes recedant, neque transcribatur vita pauperum in spolia fraudulentorum. Ea ergo mensura sit, ut neque humanitas deseratur, nec destituatur necessitas.

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these, he will quickly defeat those useful methods which are taken for the maintenance of the poor. Therefore a moderation is to be observed in giving; that neither such may be sent away empty, if really in want; nor the livelihood of the poor be turned into another channel, to become a spoil and prey to the frauds of the crafty.' It is plain from such accounts as these, that they looked upon an idle life as no better than living upon the spoils of the poor, and a robbery of the worst sort; because it often joined fraud and cruelty to the theft, making use of false pretences to divert the current of men's charity from the widow and the fatherless, and turn it to themselves; who had no necessity but what they voluntarily made to themselves, either by their idleness or luxurious and prodigal way of living: the supporting of which was an arrant theft and robbing of the poor, which is the height and extremity of cruelty and oppression. And therefore, as the laws of the State made idleness in vagrants an actionable crime, (ἀργίας δίκη the law itself terms it,) so the rules of the Church brand it as an infamous way of living, and worthy of ecclesiastical censure.

And gaming, as an occasion of fraud, and ruin of many poor families, who by these means were reduced to the greatest exigence.

20. To this they added gaming, as another way of cheating and defrauding; and that in a double respect, because men thereby were inclined to cozenage and deceit, and often ruined their families, who by this means were reduced to the greatest poverty and want by the dissoluteness and folly of a wicked parent. There might be many other reasons for declaiming against this vice, as that it is a reproachful way of dissolute living, and spending men's time in luxury, condemned by many wise and sober Heathens; that the old Roman laws punished gamesters with banishment, and many other severe penalties[18], that gaming inclines men to many great and horrible vices, as covetousness, perjury, lying, cursing and swearing, anger and passion, quarrelling and murder, and rioting and intemperance of all sorts: but I consider it here only as attended with the evil effects of fraud and consumption of men's estates, which involves many poor families in ruin, in which notion it is a downright theft and robbery. And as such it was anciently prohibited by the rules of the Church, not only to the clergy,

[18] See Bishop Taylor's Ductor Dubitantium, b. 4. ch. 1. p. 776. rule 2. s, 27. and onwards. (Works v. 14. pp. 326, &c.) See particularly s. 28. (ibid. p. 328.) citing the Lex Roscia, &c.

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but the laity also. 'If any bishop, presbyter, or deacon,' says one of the Apostolical Canons [19], 'spend his time at dice or in drinking, let him either refrain or be deposed.' And the next canon [20] adds, 'If any subdeacon, reader, or singer do the like, let him be excommunicated, and laymen also.' And so the Council of Eliberis [21] separates all gamesters in general from the communion: 'If any Christian play at dice or tables, let him be restrained from communicating; but if he leaves off and amends after a year's penance, he may be reconciled.'

Albaspinæus [22] thinks the reason of the prohibition was, because the dice had the images of the Heathen gods, as Venus, &c., imprinted on them instead of numbers, and that men in their play called upon them for good fortune: but if so, I conceive, a greater penalty would have been imposed upon them, as upon idolaters, by this Council. Therefore it is more reasonable to suppose, that the Council considered gaming as a misspending of men's useful time, a consumer of their fortunes and destruction of their families, and an inlet to fraud and covetousness and all the forementioned vices; and, under that notion, condemned such as made a trade and business of it and not a diversion. Upon this account St. Ambrose [23] pronounces the gain that is got by dice and gaming to be 'no better than theft, or unmerciful and griping usury, and that the man who gives himself to it, leads the life of a savage wild beast.' And Justinian made a law [24], 'that no one should be obliged to pay

[19] C. 42. [al. 41.] (Cotel. [c. 35.] v. 1. p. 443.) *Ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, κύβοις σχολάζων καὶ μέθαις, ἢ πανσάσθω, ἢ καθαιρείσθω.*

[20] C. 43. [al. 42.] (ibid.) *Ὑποδιάκονος, ἢ ψάλτης, ἢ ἀναγνώστης, τὰ ὅμοια ποιῶν, ἢ πανσάσθω, ἢ ἀφοριζέσθω· ὡσαύτως καὶ οἱ λαϊκοί.*

[21] C. 79. (t. 1. p. 979 a.) Si quis fidelis alea, id est, tabula luserit [nummos], placuit eum abstinere: et, si emendatus cessaverit, post annum poterit reconciliari.

[22] In loc. (ibid. p. 1007 a.) De talis, ni fallor, canon accipiendus, quibus ludere nefas videbatur, quod speciem quandam idololatriæ committeret, qui eos jactaret: deorum enim gentilium effigies pro numeris habebant; iique invocabantur, ut felicissimus eveniret jactus. Suetonius in Augusto: *Quos tollebat universos, qui Venerem jecerat.* [Conf. Horat. Od. 2. 7. 25. Ed.]

[23] De Tobia, c. 11. tot. (t. 1. pp. 602 e, seqq.) Aliud non minoris acerbitatis, &c.

[24] Cod. l. 3. tit. 43. de Aleatoribus, leg. 1. (t. 4. p. 757.) *Ὅτι ὁ ἡττηθεὶς εἰς κόττον, [? κότταβον,] οὐκ ἀπαιτεῖται· καὶ καταβαλὼν, ἀναλαμβάνει μετὰ διαδόχων ἀπὸ νικήσαντος καὶ τῶν κληρονόμων αὐτοῦ διηνεκῶς, καὶ περὶ τριακονταετίας. Εἰ δὲ μὴ θέλουσιν ἀναλαβεῖν· ὁ θέλων, καὶ μάλιστα ὁ τῆς πόλεως, ἐν ᾗ τοῦτο γέγονε, πατὴρ, ἢ ἔκδικος ἀπαιτεῖ, καὶ δαπανᾷ εἰς ἔργα τῆς πόλεως.* [Cf. Ed. Amstel. 1663. p. 106. Ed.]

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what he lost at dice; or if he had paid it, he or his heirs might recover it at law of the winner or his heirs for thirty years after and longer. Or, if he did not reclaim it, any one else might do it, or the chief magistrate of the city, the defensor, might exact it, and lay it out upon some public work or building for the use of the city.' And in such games as were permitted [25], he allowed the richest to play for no more than one shilling, and others only in proportion to their substance. And this was a very wise law, considering the complaint, which St. Jerom [26] makes, 'that whilst men play for vast sums, and stake their whole estates at once, the poor stand naked and hungry before their doors, and Christ perishes and is starved to death in his poor members for want of their relief.' Nay many times their own flesh and blood, their families and relations were ruined by their folly in one night. And what character or punishment could be thought too bad for such? "He that provides not for his own, and especially those of his own house, has denied the faith, and is worse than an infidel." And for this reason both the civil and ecclesiastical laws were so severe against dice and gaming, because of such evil consequences so commonly attending them, when they are undertaken for undue ends, and pursued by false measures, only to serve men's fraud and filthy lucre. Otherwise to play γεροντικῶς, *as old men used to play*, for diversion and not for lucre [27], is what wise and good men have always innocently done without any reproach or censure.

[25] Vid. ibid. leg. 2. (p. 758.) Καὶ μὲν σφόδρα πλούσιοι νομίσματος ἑνὸς ἑκάστην σύνθεσιν παίζουσι· οἱ δὲ λοιποὶ πάνυ ἥττονος.

[26] Ep. 12. [al. 128.] ad Gaudent. Posita dum lauditur arca, stat pauper nudus atque esuriens ante fores, Christusque in paupere moritur. [This citation is inaccurate, inasmuch as the first clause of it is the last part of the 90th line of the first Satire of Juvenal, where he reproves the gamesters and spendthrifts of his day; and the remainder of the passage is not exactly in the words of Jerome according to any edition. See Ed. Bened. Paris. 1706. (t. 4. part 2. col. 799.) or Ed. Vallars. Veronæ, 1734—42. (t. 1. p. 959 c.) where we read as follows: Vivimus quasi altera die morituri, et ædificamus, quasi semper in hoc sæculo victuri. Auro parietes, auro laquearia, auro fulgent capita columnarum; et nudus atque esuriens ante fores nostras Christus in paupere moritur.—I have examined also the old edition of Erasmus *per Frobenium*, but neither does that, or any other that I have seen, justify the Author's citation, who may possibly have quoted here, as in some other instances, from memory, or from notes accidentally incorrect. Ed.]

[27] See Bishop Taylor's Ductor Dubitantium, b. 4. ch. 1. p. 776. rule 2. s. 31. (Works, v. 14. p. 331.) But if the case can be otherwise, &c.

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And so I have done with the several sorts of theft and robbery, which are great transgressions of the Eighth Commandment; by which we may judge of the mistake of those who confine the discipline of the Church to the punishment of three capital crimes, idolatry, adultery, and murder: for it will be hard to bring theft under any of those denominations, unless we say all theft is covetousness, and covetousness is idolatry. But in that large sense of idolatry, which is serving our own affections more than God, not only covetousness, but adultery and murder will be idolatry also. And then all crimes might be resolved into one, and the Church had nothing to do but to punish one crime under different species of idolatry: which does by no means rightly explain her discipline, which makes idolatry a distinct crime against a command in the first table of the Decalogue, as disobedience to parents, adultery, murder, and theft, are against the second table; and according to this order I have hitherto considered them in this discourse.

CHAP. XIII.

Of great crimes against the Ninth Commandment, false accusation, libelling, informing, calumny and slander, railing and reviling, &c.

1. The intent of the Ninth Commandment is to secure our neighbour's credit from injury by spreading false reports concerning him, to the prejudice of his good name and reputation. This is sometimes done in a public manner, by bearing false witness against him: and then it is adding perjury to the calumny, and sometimes theft and murder also: for it may affect not only his credit, but his fortune and his life too; as it did in the case of Naboth, who was stoned to death upon a false accusation, "Naboth did blaspheme God and the king." [1 Kings, 21, 13.] And so our Saviour and many of his disciples after him, suffered by the malicious and false imputations of their enemies, the Jews and Heathens. The greatness of the crime in these respects has been already shown under the several titles of *perjury, theft,* and *murder:* here I only consider it as an injury to men's reputation, which being a thing dear and valuable to all men, the laws were very careful to secure men in the quiet enjoyment of it, and punish all base attempts to ruin and destroy it. **Of false witness.**

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Aulus Gellius[28] tells us, the punishment of false-witness among the Romans, by the law of the Twelve Tables, was to cast the criminal headlong from the top of the Tarpeian Rock: and he thinks, if this punishment had continued, it might have been of great service to the Roman commonwealth in deterring men from the commission of this crime by its just severity. Afterward by a law, called the *Lex Remmia*[29], false witnesses were burnt in the face, and stigmatized with the letter K, denoting them to be calumniators or false accusers. In opposition to whom the law[30] calls honest men, *homines integræ frontis*, men without any such mark set upon them. This law and punishment is often mentioned by the Roman writers, Tully[31], Pliny[32], and others[33]: and though the Christian law abolished it, as it did that of the cross and some others, yet still false

[28] Noct. Attic. l. 20. c. 1. (p. 873.) An putas, Favorine, si non illa etiam ex Duodecim Tabulis de testimoniis falsis pœna abolevisset: et si nunc quoque, ut antea, qui falsum testimonium dixisse convictus esset, e Saxo Tarpeio dejiceretur, mentituros fuisse pro testimonio tam multos, quam videmus?

[29] Digest. l. 48. tit. 16. ad Senatus-consultum Turpilianum, leg. 1. n. 2. (t. 3. p. 1507.) Calumniatoribus pœna lege Remmia irrogatur.

[30] Ibid. l. 22. tit. 5. de Testibus, leg. 13. (t. 1. p. 2079.)...Testimonii fidem, quod integræ frontis homo dixerit, perpendere.

[31] Orat. 2. pro Roscio, n. 55. [al. 19.] (v. 3. p. 914.) Nemo nostrum est, Eruci, quin sciat, tibi inimicitias cum Sexto Roscio nullas esse: vident omnes, qua de causa huic inimicus venias: sciunt hujusce pecunia te adductum esse. Quid ergo est? ita tamen quæstus te cupidum esse oportebat, ut horum existimationem et legem Remmiam putares aliquid valere oportere.—Num. 57. [al. 20.] (ibid. p. 916.) Sin autem sic agetis, ut arguatis aliquem patrem occidisse, neque dicere possitis, aut quare, aut quomodo, ac tantummodo sine suspicione latrabitis; crura quidem vobis nemo suffringet: sed si ego hos bene novi, literam illam, cui vos usque eo inimici estis, ut etiam eas omnes oderitis, ita vehementer ad caput affigent, ut postea neminem alium, nisi fortunas vestras, accusare possitis.

[32] Panegyric. p. 106. [c. 35.] (Lond. 1741. p. 312.)... Neque, ut antea, exsanguem illam et ferream frontem nequidquam convulnerandam præbeant punctis, et notas suas rideant; sed spectent paria præmio damna, nec majores spes, quam metus habeant; timeantque, quantum timebantur.

[33] Vid. Dempster. Addition. s. Paralipom. ad Rosin. l. 9. c. 16. p. 1517. [Vid. l. 8. c. 22. de Judiciis. (p. 1381 d. 2.) *Lex de Calumniatoribus*. Item illa de calumniatoribus: ut calumniatoribus pœna constituto judicio imperetur: cujus meminit Cicero pro Sexto Roscio, Papinianus, l. 13. de Testibus, l. 1. c. 1. ad Senatus-consultum Turpilianum. Hac autem lege calumniatori in fronte imprimebatur litera, qua indicabatur calumniatum eum esse. Sic enim Cicero pro Sexto Roscio: *Literam illam, &c.* Cæterum hanc legem, sicut et superiorem [Memmiam] quidam *Remmiam*, appellant. Paulus Manutius autem, Commentariis in Orationem pro Sexto Roscio, superiorem illam de reo evocando *Memmiam*, hanc ergo de calumniatoribus *Remmiam* dictam sibi videri scribit. *Grischov.*]

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accusation and calumny were corrected with suitable punishments, such as infamy, banishment, and suffering the same evil, by the law of retaliation, which the false accuser intended to draw upon others; as appears from several laws in the Imperial Codes[34], and particularly those which bind the accusing party to undergo the same punishment which his false accusation tended to bring upon the supposed criminal, if he did not make good his charge against him. We have already[35] seen a law of Valentinian and Gratian, ordering 'that whoever impleaded another, either in regard to his fame and reputation, or his fortune, or his life, should undergo the same penalty he intended to bring upon the party so impeached, if he proved a calumniator, and did not fairly make out his action:' and every accuser was tied in bonds, which the law[36] calls *vinculum in-*

[34] Cod. Theod. l. 9. tit. 39. de Calumniatoribus, leg. 1. (t. 9. p. 284.) Non est ratio, qua manifesti calumniatoris supplicium differatur: nec enim patimur frequenter iterari, quæ consistere prima actione non quiverint, atque alienam innocentiam securitatemque sine crimine, damnabili appetitione terreri.—Leg. 2. (p. 285.) Nostris et parentum nostrorum constitutionibus comprehensum est, *eos qui accusationem alienis nominibus præsumpsissent, delatorum numero esse ducendos.* Atque ideo calumniosissimum caput et personam judicio irritæ delationis infamem deportatio sequatur: quo posthac singuli universique cognoscant, non licere in eo principum animos commovere, quod non possit ostendi.—Leg. 3. (p. 287.) Innocentes, sub specie falsæ criminationis, non patimur callidorum impugnatione subverti: quæ si temptaverint, intelligant sibimet severitatem legum pro commissis facinoribus incumbere.—Cod. Justin. l. 9. tit. 46. de Calumniatoribus, leg. 7. (t. 4. p. 2444.) Non prius quenquam sinceritas tua ad tuæ sedis examen jubebit adduci, quam solemnibus satisfecerit, qui nititur fidem doloris asserere: cum, juxta formam juris antiqui, ei, qui cœperit arguere, aut vindicta proposita sit, si vera detulerit, aut supplicium, si fefellerit.—Leg. 8. (p. ead. ad calc.) Nostris et parentum, &c.—Leg. 9. (p. 2445.) Fallaciter incusantibus, maxime post exhibitionem accusati, nullius juris color veluti derivata excusatione proficiat: non publica quidem abolitio, non privata talibus proficiat subveniatque personis: non specialis indulgentia, nec beneficium quidem eos generale subducat.—Leg. 10. (p. 2446.) Quisquis crimen intendit, non impunitam fore noverit licentiam mentiendi; cum calumniantes ad vindictam poscat similitudo supplicii.

[35] Ch. 12. s. 15. p. 473.

[36] Cod. Theod. lib. 9. tit. 1. de Accusationibus et Inscriptionibus, leg. 9. (t. 3. p. 13.) Non prius quenquam, &c.—Vid. Cod. Justin. l. 9. tit. 46. leg. 7. See the preceding note.—Cod. Theod. ibid. leg. 11. (p. 15.) Nullus secundum juris [antiqui] proscriptum crimen, quod intendere proposuerit, exsequatur, nisi subeat inscriptionis vinculum, &c.—Leg. 14. (p. 19.) Qui vel internecii exserit actionem, vel crimen suspectæ mortis intendit, non prius cujuscunque caput accusatione pulset, quam vinculo legis astrictus pari cœperit pœnæ condictione jurgare: ita ut etiam servos si quis crediderit accusandos, non prius ad miserorum tormenta veniatur, quam se accusator vinculo in-

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scriptionis, to suffer a retaliation, or similitude of punishment, upon failure of evincing his charge against another. Such care was taken by the secular laws to discourage delators or false informers, and preserve the fame and reputation of innocent men against the vile attempts of such dangerous aggressors.

Nor were the ecclesiastical laws less severe in their way against such transgressors. The false witness in any case was to do penance five years for his crime by a canon[37] of the Council of Eliberis. And this, provided it was not in the case of death; for in that case, being the crime of murder, the criminal was to be debarred from communion to the very last, as has been shown before[38] in speaking of murder. The Councils of Agde[39] and Vannes[40] impose a general penance upon such offenders, without naming the term or duration of their penance, which was left to the discretion of the bishop, who was to judge of the sincerity of their repentance. But the first Council of Arles[41] obliges them to do penance all their lives: and the second[42] only moderates their punishment so far as to leave it to the bishop to determine of their repentance and satisfaction.

Of libelling.

2. Another way of injuring men's credit and reputation was, by spreading false reports in a covert and clandestine manner, which the law calls *libelling*. This was done when a man was

scriptionis astrinxerit, &c.—Leg. 19. (p. 24.) Accusationis ordinem jam dudum legibus institutum servari jubemus: ut quicunque in discrimen capitis arcessitur, non statim reus, qui accusari potuit, æstimetur, ne subjectam innocentiam faciamus: sed quisquis ille est, qui crimen intendit, in judicium veniat; nomen rei indicet; vinculum inscriptionis accipiat; custodiæ similitudinem, habita tamen dignitatis æstimatione, patiatur: nec impunitam fore noverit licentiam mentiendi; cum calumniantes ad vindictam poscat similitudo supplicii.

37 C. 74. (t. 1. p. 978 c.) Falsus testis prout crimen est abstinebit; si tamen non fuerit mortis quod objecit. Et si probaverit quod diu [al. non] tacuerit, biennii tempore abstinebit. Si autem non probaverit in conventu clericorum, placuit per quinquennium abstinere.

38 Ch. 10. ss. 9 and 10. p. 397.

39 C. 37. (t. 4. p. 1389 c.) Censemus [al. censuimus] homicidas et falsos testes a communione ecclesiastica submovendos, nisi pœnitentiæ satisfactione crimina admissa diluerint.

40 C. 1. (ibid. p. 1055 b.) in the same words.—C. Carth. 4. c. 55. (t. 2. p. 1204 c.) Ut episcopus accusatores fratrum excommunicet, et, si emendaverint vitium, recipiat eos ad communionem, non ad clerum.

41 C. 14. (t. 1. p. 1428 e.) De his, qui falso accusant fratres suos, placuit, eos usque ad exitum non communicare, &c.

42 C. 24. (t. 4. p. 1013 e.) Eos, qui falsa [al. falso] fratribus capitula [al. capitalia] objecisse convicti fuerint, placuit, usque ad exitum non communicare, sicut magna synodus ante constituit, nisi digna satisfactione pœnituerint.

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accused by a bill of indictment, to which the author was afraid to set his name. And such accusations were of no force in law, but were appointed to be torn in pieces or burnt; and no man might read, or retain, or divulge them, without being reputed the infamous author of them. The Christian emperors were extremely careful in discouraging all such base attempts upon men's credit and reputation, as may be seen in the several laws of Constantine, Constantius, Valentinian and Valens, Theodosius and Arcadius, in the Theodosian Code, under the title, *De Famosis Libellis*. It will be sufficient to repeat one of them[43] made by Valentinian in this tenour: 'The very name of scandalous libels is infamous. Therefore whoever collects, or reads them, and does not immediately commit them to the flames, shall be liable to be condemned to a capital punishment.' By which it is easy to judge how infamous the authors of such libels were, since none were allowed so much as to read and retain them with impunity, but were in danger of being proceeded against as the suspected authors of them. The ecclesiastical law made the authors and publishers of all such pasquils, when detected, liable to excommunication. For so the Council of Eliberis words it in one[44] of her canons: 'If any are found to have scattered or dispersed infamous libels in the church, let them be anathematized.'

Of detraction, whispering, and backbiting.

3. Another sort of secret defamation was that which was committed by the detraction of the lurking whisperer and backbiter: against whose venomous tongues St. Austin is said to have endeavoured to guard his own family and conversation, by causing these two verses to be written upon his table:—

Quisquis amat dictis absentum rodere vitam,
Hanc mensam indignam noverit esse sibi.

He, that takes delight in lessening the characters of the absent, is no welcome or worthy guest at this table. This he did to admonish every one that came there to abstain from defamatory discourse and detraction. And Possidius[53] says,

[43] L. 9. tit. 34. leg. 7. (t. 3. p. 243.) Famosorum infame est nomen libellorum. Ac si quis vel colligendos, vel legendos putaverit, ac non statim chartas igni consumpserit, sciat se capitali sententia subjugandum.

[44] C. 52. (t. 1. p. 976 b.) Si qui inventi fuerint libellos famosos in ecclesia ponere, anathematizentur.

[53] Vit. Augustin. c. 22. (ap. Oper. juxt. Ed. Bened. t. 10. append. p. 272 f.)—Conf. ibid. (p. 273 a.) Nam et quosdam suos familia-

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he was so strict and punctual in the observation of this rule, that he would sometimes sharply reprove his most familiar acquaintance and fellow-bishops for forgetting and transgressing it; telling them, that either those verses must be erased from his table, or he must withdraw and retire to his private apartment. This was a sort of private discipline, like that of St. Austin's mother denying him the privilege of sitting at her own table whilst he was a Manichee; and it was a very proper way of discouraging all evil speaking and detraction; but I do not find that this crime was brought under public discipline by any general rule of the Church. And the reason might be what St. Jerom[54] observes, that the sin was too general and epidemical to be publicly corrected. 'For there are very few that have wholly renounced this vice; and it is a rare thing to find any so careful to make their own life unblameable, not to be willing to find fault with others. Yea, so great a propensity is there in men's minds towards this evil, that they, who are far removed from other vices, fall into this as the last snare of the Devil.'

Of railing and reviling, or scurrilous and abusive language: and of revealing secrets.

4. But when this detraction broke out into open slander and calumny, and especially when it was attended with contumelious, bitter, and reproachful words, with railing and reviling, and scurrilous and abusive language; then, as it was matter of public scandal, so it became the subject of a public censure, for St. Paul puts railers and revilers into the numbers of those who are neither fit for the society of men, nor the kingdom of God. Thus, (1 Cor. 5, 11,) "I have written unto you, not to keep company, if any man, that is called a brother, be a fornicator, or covetous, or an idolater, or a railer, or a drunkard, or an extortioner, with such an one, no not to eat." And again, (1 Cor. 6, 9 and 10,) "Be not deceived: neither fornicators, nor idolaters, nor adulterers, nor effeminate, nor abusers of themselves with mankind, nor thieves, nor covetous,

rissimos coepiscopos illius Scripturæ oblitos, et contra eam loquentes, tam aspere aliquando reprehendit, commotus ut diceret, aut delendos esse illos de mensa versus, aut se de media refectione ad suum cubiculum surrecturum.

[54] Ep. 14. [al. 148.] ad Celantium. (t. 1. p. 1096 c.) Pauci admodum sunt, qui huic vitio renuntient; raroque invenies qui ita vitam suam irreprehensibilem exhibere velint, ut non libenter reprehendant alienam. Tantaque hujus mali libido mentes hominum invasit, ut, etiam qui procul ab aliis vitiis recesserunt, in istud tanquam [al. tamen quasi] in extremum Diaboli laqueum incidant.

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nor drunkards, nor revilers, nor extortioners, shall inherit the kingdom of God." And therefore the Church, following this rule, reckoned slanderous railing and scurrility among the crimes that deserved ecclesiastical censure. Insomuch that a clergyman, who was noted for scurrilous and scoffing language, is ordered by the Council of Agde [55] to be degraded. And the same canon occurs in the fourth Council of Carthage [56], with some others of the like nature: as, if he be given to railing [57], or to revealing of secrets to the infamy and disgrace of others.

Upon this latter case, of defaming men by divulging unnecessarily their secret crimes, St. Austin has a whole Discourse [58], where he particularly says, 'that he that rebukes a man publicly before all, when his crime is known to none but himself alone, is not a reprover, but a betrayer.' He reminds such of 'the example of Joseph [59], who, finding the holy Virgin to be with child, and suspecting her to be guilty of fornication, yet, being a just and good man, was minded to put her away privily, and not make her a public example;' and he adds [60], that bishops were wont thus to proceed with private criminals in the Church: 'A bishop knows a man to be guilty of murder, and the thing is known to none besides himself. If in this case I should reprove him publicly, some other would take the law upon him. Therefore I neither be-

[55] C. 70. (t. 4. p. 1394 c.) Clericum scurrilem et verbis turpibus joculatorem ab officio retrahendum.

[56] C. 60. (t. 2. p. 1204 e.) In the same words.

[57] Ibid. c. 57 (d.) Clericus maledicus, maxime in sacerdotibus, cogatur ad postulandam veniam. Si noluerit, degradetur. — C. 56. (d.) Clericus, qui adulationibus et proditionibus vacare deprehenditur, ab officio degradetur.

[58] Serm. 16. de Verb. Dom. t. 10. p. 29. [al. Serm. 82. c. 7.] (t. 5. p. 444 b.) . . . . . Si solus nosti quia peccavit in te, et eum vis coram omnibus arguere, non es correptor, sed proditor.

[59] Ibid. (c.) Attende, quemadmodum vir justus Joseph tanto flagitio, quod de uxore fuerat suspicatus, tanta benignitate pepercit, antequam sciret unde illa conceperat: quia gravidam senserat, et se ad illam non accessisse noverat. Restabat itaque certa adulterii suspicio: et tamen, quia ipse solus senserat, ipse solus sciebat, quid de illo ait Evangelium? *Joseph autem cum esset vir justus, et nollet eam divulgare.* Mariti dolor non vindictam quæsivit. Voluit prodesse peccanti, non punire peccantem.

[60] Ibid. c. 8. (p. 444 f.) Novit enim nescio quem homicidam episcopus, et alius illum nemo novit. Ego illum volo publice corripere, at tu quæris inscribere. Prorsus nec prodo, nec negligo: corripio in secreto; pono ante oculos Dei judicium, terreo cruentam conscientiam, persuadeo pœnitentiam.

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tray nor neglect him: I reprove him in secret, I set before his eyes the judgment of God, I terrify his guilty conscience, I persuade him to repentance!' 'So again,' says he[61], 'there are some men that are adulterers in their own houses, they sin sometimes in private, and they are discovered to us by their own wives, sometimes in zeal and fury, sometimes in mercy, desiring the salvation of their souls. Now in this case we do not betray them openly, but rebuke them in secret. Where the evil was committed, there let it die. Yet we do not neglect that wound, but before all things show the man that has committed such a sin, and wounded his conscience thereby, that his wound is mortal.' By this discourse of St. Austin it seems clear, that the Church brought no private crimes under public penance, except when the guilty person consented to it and required it: and to do otherwise was an high crime in the minister, who was charged, for any such attempt, as a divulger of secrets, and betrayer of his trust, and one that brought an unnecessary defamation and scandal upon his brethren.

Of lying. How far it brought men under the discipline of the Church.

5. Thus far the discipline of the Church proceeded against all defamatory and pernicious lying. But there are some other sorts of lies, as *the ludicrous lie* and *the officious lie*, which, though culpable and sinful in themselves, were not so severely pursued by ecclesiastical censures. Tertullian[62] reckoning up those lesser sins which were not publicly punished by penance in the Church, puts 'lying out of modesty or necessity' among them; and Origen[63] makes lying one of those sins which were incident to those who had made the greatest proficiency in the Church.

Some indeed pleaded for officious lies, as not only innocent and lawful, but in some cases useful and necessary; as if it

[61] [Ibid. (g.) Sunt homines adulteri in domibus suis, in secreto peccant, aliquando nobis produntur ab uxoribus suis plerumque zelantibus, aliquando maritorum salutem quærentibus: nos non prodimus palam, sed in secreto arguimus. Ubi contigit malum, ibi moriatur malum. Non tamen vulnus illud negligimus; ante omnia ostendentes homini in tali peccato constituto, sauciamque gerenti conscientiam, illud vulnus esse mortiferum; &c. Ed.]

[62] De Pudicit. c. 19. (p. 582 b.) ... Quod sint quædam delicta quotidianæ incursionis, quibus omnes simus objecti. Cui enim non accidit, aut irasci inique, et ultra solis occasum; aut et manum immittere, aut facile maledicere, aut temere jurare, aut fidem pacti destruere; aut verecundia, aut necessitate mentiri.

[63] Tractat. 6. in Matth. p. 60. See before, ch. 3. s. 14. p. 185. n. 58.

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were to save the life of an innocent person, a man ought in that case rather to tell a lie, than to betray him to death. But St. Austin disputes against this sort of officious lies also, and shows them to be culpable and sinful; arguing, that a man ought neither to betray an innocent person, nor tell a lie to save him, but to venture his own life, by professing roundly, that he will neither lie for him, nor discover him. And he gives a rare instance of this sort of fortitude[64] in one Firmus, bishop of Tagasta, who according to what the Greeks call φερωνυμία, *pheronomy*, carried *firmness* in his name, and *firmness* in his resolution. For, when one of the Heathen emperors had sent his apparitors to search for a certain person whom he had hidden, he told them plainly, he could neither tell a lie nor betray the man; and though they put him to the rack, and tortured him to make him confess, yet he persisted in his resolution not to discover the man that was fled to him for safety and protection. Whereupon he was carried before the emperor himself, where he gave such admirable and fresh proofs of his firmness, that the emperor without any great difficulty was prevailed upon to pardon the man, whom he kept in private under his protection. This was a singular instance of heroic gallantry, rather to run the hazard of his own life, than tell a lie to save another from destruction. But the discipline of the Church did not run thus high, to oblige all men to come up to this degree of veracity under pain of excommunication. It was sufficient to encourage truth and ingenuity in all cases, and punish falseness and perfidiousness in all notorious instances of mischievous evil: but in other cases it was no blemish to the discipline of the Church to suffer some sort of more pardonable lying to pass without the animadversion of the highest censure, so long as they gave no encouragement to it, but condemned it universally as a lesser instance of trans-

[64] De Mendacio ad Consentium, c. 13. (t. 6. p. 434 a.) Fecit hoc episcopus quondam Thagastensis ecclesiæ, Firmus nomine, firmior voluntate. Nam cum ab eo quæreretur homo jussu imperatoris per apparitores ab eo missos, quem ad se fugientem diligentia, quanta poterat, occultabat; respondit quærentibus nec mentiri se posse, nec hominem prodere; passusque tam multa tormenta corporis (nondum enim erant imperatores Christiani) permansit in sententia. Deinde ad imperatorem ductus usque adeo mirabilis apparuit, ut ipsi homini, quem servabat, indulgentiam sine ulla difficultate impetraret.

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gression. To this purpose St. Austin says in another place[65], 'there are two sorts of lies in which there is no great fault, and yet they are not wholly without fault, that is, when we lie in jest, and when we lie for the advantage of our neighbour.' In this latter case he thinks a man may honestly conceal the truth by silence, but he must not upon any account speak false, or tell a lie; for that will not consist with the perfection of a Christian. Therefore[66] if he would not betray a man to death, 'he must prepare himself to conceal the truth, but not to speak false; so as that he may neither betray the man, nor tell a lie; lest he destroy his own soul to preserve the life of another.' As this shows the perfection of the Christian morals, so it equally declares the abatement that was made in the discipline of the Church, in reference to such officious lies as were extorted from men upon some extraordinary charity; which though it did not wholly excuse the sin, yet it made it so far tolerable, as not to incur the severity of public discipline, but come within the number of those lesser sins, which did not ordinarily fall under the greater censures of the Church.

In all other cases, where lying was attended with mischievous and pernicious effects, it was punished according to the proportion of those crimes that accompanied it. As we have already seen in the case of false-witness, libelling, slandering, railing, and reviling. And when it implied any fraud, or equivocation, or double-dealing in matters of religion, it was punished as apostasy or perjury, as we have seen in the case of the *Libellatici*[67], who either denied their religion in writing, or purchased libels of security from the magistrate, to excuse them from sacrificing; and those who feigned themselves mad to avoid a prosecution: both which sorts of men the Church con-

[65] In Ps. 5. p. 2. (t. 4. p. 18 g.) Duo sunt omnino genera mendaciorum, in quibus non est magna culpa; sed tamen non sunt sine culpa; cum aut jocamur, aut, ut [proximis] prosimus, mentimur.

[66] Ibid. (supr. f.) .... Aliud est mentiri; aliud, verum occultare: ... ut si quis forte vel ad istam visibilem mortem non vult hominem prodere, paratus esse debet verum occultare, non falsum dicere; ut neque prodat, neque mentiatur; ne occidat animam suam pro corpore alterius. —Vid. C. Tolet. 8. c. 2. (t. 6. p. 403 d.) Vir quoque sanctissimus Augustinus, &c.—Gratian. caus. 22. quæst. 2. c. 8. *Quot sunt genera Mendacii.* (t. 1. p. 1254. 43.) Primum est capitale mendacium longeque fugiendum quod fit in doctrina religionis, ... ut aliquem lædat injuste.

[67] Ch. 4. ss. 6 and 7 of this Book, pp. 204, 207.

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demned as idolaters, and as guilty, by their dissimulation and cowardice, of betraying their holy religion. The Priscillianists were likewise infamous for this character and abominable practice of equivocation. For they taught their disciples this base art of dissembling, and concealing their vile practices by lies and perjury[68], giving them this direction as one of their rules and instructions in cases of danger: 'Swear, and forswear, and never discover your secrets.' How much more laudable and commendable is the rule given in this case even by the Heathen satirist[69], which deserves to be written in letters of gold: 'If ever you are called to be a witness in a doubtful matter, though Phalaris himself should command you to speak false, and threaten to burn you in his brazen bull unless you will forswear yourself; in that case reckon it the greatest villainy to prefer life before truth and honesty, and for the sake of living to forego those things, which are the only true reasons of living, that is, probity, integrity, and a good conscience, for which end men are born and sent into the world by the providence of God.'

This rule is often inculcated by the Heathen moralists, Marcus Antoninus, Epictetus, Seneca, and Plutarch: which made it the more reasonable for the Christians to insist upon it, and punish the crimes of perjury and falseness with the severest of ecclesiastical censures, whenever they could plainly convict any one of being guilty of them: and when they could not, the providence of God commonly interposed, and discovered and punished them by some remarkable divine judgment. Of which, beside the case of Ananias and Sapphira in Scripture, we have a memorable instance in Eusebius[70] of three men, who combined together in a false accusation of Narcissus, bishop of Jerusalem, imprecating upon themselves very direful judgments, which the providence of God justly brought upon them;

[68] De Hæres. c. 70. (t. 8. p. 22 d.) Propter occultandas autem contaminationes et turpitudines suas, habent in suis dogmatibus et hæc verba: *Jura, perjura, secretum prodere noli.*

[69] Juvenal. Sat. 8. ver. 80. (ap. Corp. Poet. Lat. t. 2. p. 1155.)

....Ambiguæ si quando citabere testis,
Incertæque rei, Phalaris licet imperat, ut sis
Falsus, et admoto dictet perjuria tauro;
Summum crede nefas animam præferre pudori,
Et propter vitam vivendi perdere causas.

[70] L. 6. c. 9. See before, ch. 7. s. 8. p. 365. n. 28.

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of which, because I have given a full relation before[71], I need say no more in this place.

CHAP. XIV.

Of great transgressions against the Tenth Commandment, envy, covetousness, &c.

Whether envy brought men under the discipline of the Church.

1. There is but little to be observed in the ancient discipline of the Church concerning the transgressions against this commandment: because, though some of them were great crimes, yet they were such as chiefly consisted in the internal corruptions of the mind; and the Church could take no notice of them, till they first discovered themselves in some outward actions. Envy was a crime of that nature: it was always reckoned a diabolical sin, and one of the first magnitude: but yet before it could bring a man under public discipline, the inward rancour of the heart must betray itself in some outward, apparent, and visible action. In this sense we are to understand St. Chrysostom[72], when he says, 'the envious man ought to be cast out of the Church as well as the fornicator, to preserve others from the contagion and poison of his example:' that is, when envy shows itself in any of those mischievous effects, which naturally arise from it, and turn to the apparent detriment of men or religion. For, as Cyprian[73] observes, 'Envy is a very prolific vice, multiplying itself into various shapes and figures: it is the root of all evils, the fountain of destruction,

[71] Ch. 7. s. 8. p. 364.

[72] Hom. 41. in Matth. p. 363. [Bened. 40. al. 41.] (t. 7. p. 441 b.) ...*Ὥσπερ τῷ πεπορνευκότι οὐ θέμις εἰσελθεῖν εἰς τὴν ἐκκλησίαν, οὕτως οὐδὲ τῷ βασκαίνοντι· καὶ πολλῷ μᾶλλον τούτῳ ἢ ἐκείνῳ.*

[73] De Zelo et Livore. p. 223. (p. 154.) Late patet zeli multiplex et fœcunda pernicies. Radix est malorum omnium, fons cladium, seminarium delictorum, materia culparum. Inde odium surgit, animositas inde procedit. Avaritiam zelus inflammat; dum quis suo non potest esse contentus, videns alterum ditiorem. Ambitionem zelus excitat, dum cernit quis alium in honoribus auctiorem: zelo excæcante sensus nostros, atque in ditionem suam mentis arcana redigente, Dei timor spernitur, magisterium Christi negligitur, judicii dies non providetur. Inflat superbia, exacerbat sævitia, perfidia prævaricatur, impatientia concutit, furit discordia, ira fervescit; nec se jam potest cohibere vel regere, qui factus est potestatis alienæ. Hinc Dominicæ pacis vinculum rumpitur, hinc caritas fraterna violatur, hinc adulteratur veritas, unitas scinditur, ad hæreses atque ad schismata prosilitur; dum obtrectatur sacerdotibus, dum episcopis invidetur, cum quis aut queritur non se potius ordinatum, aut dedignatur alterum ferre præpositum.

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the seminary of sins, and the matter of all offences. Hence proceeds hatred, hence animosity arises. Envy inflames covetousness, making a man not to be content with his own, whilst he sees another richer than himself. Envy excites ambition, whilst a man sees another in greater honour than himself. Envy blinds our senses, and reduces the interior faculties of the soul under its power and dominion. Then the fear of God is slighted, the precepts of Christ are neglected, the day of judgment is not thought of. It puffs us up with pride, it embitters us with cruelty, makes us prevaricate with perfidiousness, shocks us with impatience, enrages us with discord, inflames us with anger; and a man cannot contain or govern himself who is now under the power of another. By this means the bond of divine peace is broken, brotherly charity is violated, truth adulterated, unity divided, and heresies and schisms take their original; whilst men disparage the priests, and envy the bishops, and every one complains that he himself was not ordained, or takes it in dudgeon that another was preferred before him.' When envy was attended with any such effects as these, then it fell under the cognizance of public discipline; not as it was an inward corruption of the mind, but as it discovered itself in some outward and vicious action, as open dissension, or heresy, or schism, or the breach of unity and peace, ecclesiastical or civil: which crimes being the subject of church-censure, so far as envy was concerned in any of them, so far it might be said to be punished by the public discipline of the Church, but no otherwise, for want of sufficient ground to proceed in a legal way of evidence against it. But yet this bitter root gave but too many occasions to the Church to punish it in other species; being one of those sins that could not contain itself, or long lie hid, having a train of other vices commonly attending it, according to the observation made by Cyprian, and long before by St. James: [3, 16.] "For where envying and strife is, there is confusion and every evil work."

Of pride, ambition, and vain-glory.

2. The like is to be observed of pride, ambition, and vain-glory. These were great sins in their own nature: but, being internal and spiritual sins in their kind, the discipline of the Church could take no notice of them, till they discovered themselves in some enormous outward vicious actions. As, when pride drew men into blasphemy against God or oppression of

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men; when ambition or vainglory made men factious and turbulent in the Church, and pushed them forward into open heresy or schism; then was the proper time for the Church to take her spiritual sword into her hand, and make use of her censures for their correction. Thus we have seen the pride of Andronicus corrected by Synesius[74], bishop of Ptolemais, when it brake forth into open blasphemy against Christ: and thus all along heretics and schismatics found their punishment, when their ambition and restless spirit proceeded so far as to make some open breach upon the faith or unity of the Church. But in these cases pride was rather punished in other species of sin, blasphemy, heresy, or schism; for the censure of which the reader must look back into the former parts of this Book, [especially the sixth and seventh chapters.]

Of covetousness.

3. The same observation is to be carried further, and made upon covetousness, which is another of those three great lusts that reign in the world, the lust of the heart, the lust of the eye, and the pride of life. Covetousness, which is the lust of the eye, is always a very great sin before God; being, as the Apostle terms it, "idolatry, and the root of all evil;" [Col. 3, 5. 1 Tim. 6, 10.] and even when it is only conceived in the mind it makes a man odious to his Maker. But because God sees not as man sees, for God looks upon the heart, therefore before covetousness can render a man a proper object of the Church's discipline it must discover itself in some visible act of injustice, as theft, oppression, or fraud, under which appearances, but not otherwise, it was liable to the Church's judgment and censure. And this is what Gregory Nyssen[75] observes, that among all the species of covetousness none were expiated by solemn penance, but such as theft and violation of graves, that is, such instances of covetousness as manifested themselves in some outward and apparent evil action.

Of carnal lusts.

4. And the like is to be said of the lust of the heart, or carnal lusts, and sins of uncleanness. Though the evil thoughts and intentions of the heart are sinful before God in general: for "If I regard iniquity in my heart, the Lord will not hear me:" [Ps. 66, 18.] and though in particular, "He that looks on a woman to lust after her hath committed adultery with

[74] Ep. 58. See ch. 2. ss. 6 and 8. pp. 84, 87. nn. 63 and 72.

[75] Ep. ad Letoium. c. 6. See before ch. 6. s. 24. p. 311. n. 59.

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her already in his heart;" [Matth. 5, 28.] yet this was not punishable in the discipline of the Church: because the Church is no judge of the secret intentions, but only of the outward and visible actions, that carry scandal as well as sin in them. Therefore we have observed before[76], out of the Council of Neocæsarea[77], that no one was to be excommunicated for sins only in design and intention. If a man purpose in his heart to commit fornication with a woman, but his lust proceed not into action, it is apparent he is delivered by grace, says the canon; and therefore, though he was culpable before God, yet the Church inflicted not the censure of excommunication on him, because her discipline extended not to men's private thoughts, but only to their outward actions. And this was the case of all transgressions that were purely against this command: they might be punished under other species of sin, but not as they were only sins of the heart, because, as such, human judicature could take no cognizance of them.

We have now gone through the several branches of duty and transgression, and therein taken a full view of the extent of the discipline of the Church; whereby it appears that the objects of ecclesiastical discipline were not only the three great sins of idolatry, adultery, and murder, but all other crimes that come under the denomination of scandalous and great transgressions. And thus far the discipline of the Church related to all persons in general, but there were some punishments peculiar to delinquent clergymen, which, because they are matter of particular inquiry, I shall make them the subject of the following Book.

[76] Ch. 3. s. 17. p. 193.

[77] C. 4. (t. 1. p. 1481 b.) Ἐὰν πρόθηταί τις ἐπιθυμῆσαι γυναικὸς, συγκαθευδῆσαι μετ' αὐτῆς, μὴ ἔλθῃ δὲ εἰς ἔργον αὐτοῦ ἡ ἐνθύμησις, φαίνεται ὅτι ὑπὸ τῆς χάριτος ἐρρύσθη.

END OF VOL. VI.

End of the seventh volume of the Original Edition, which volume, containing this Book only, was first published in 1720.

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